NYPL RESEARCH LIBRARIES
3 3433 08044275 3

132
Fradenburgh

Digitized by the Internet Archive
in 2008 with funding from
Microsoft Corporation

http://www.archive.org/details/americancivicste00frad

UNITED STATES CAPITOL BUILDING, WASHINGTON, D. C.

AMERICAN CIVICS

A Text Book for

High Schools. Normal Schools, and

Academies

BY

A. G. FRADENBURGH, Ph.D.

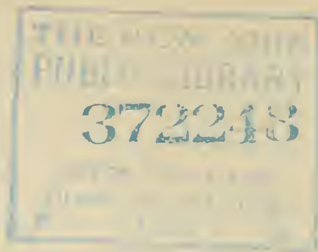
PROFESSOR OF HISTORY AND POLITICS, ADELPHI COLLEGE, BROOKLYN, N. Y.

HINDS, NOBLE & ELDREDGE

31-33-35 West 15th Street New York City

Checked

May 1913



Copyright, 1906
HINDS, NOBLE & ELDREDGE

PREFACE

A TEXT-BOOK on Civics may be written with special reference to one state, or may be written with the object of presenting a broad treatment which will be applicable to all the states. The latter plan has been followed in the present volume, but for the benefit of those who may desire a fuller treatment of any particular state, a series of small supplementary hand-books on special states has been issued by the publishers of this volume. This series now includes volumes devoted to most of the states and will be increased from time to time.

The syllabus of the Regents of the University of the State of New York has been followed in preparing "American Civics," and hence chapters on Finance and Law have been included. Few teachers will doubt the desirability of a brief discussion of these important subjects, especially when it is borne in mind that ninety per cent of our high school students will never know much of anything about these subjects unless they are presented in a course on civics.

Some teachers will prefer to begin the subject with a treatment of the Federal Government, on the ground that students are better acquainted with our national affairs than with matters relating to state and local governments. While such a plan may be pursued, the author is convinced that few students, who are beginning the study of civics, know enough concerning national matters to be of much

assistance to them. There are sound historical and pedagogical reasons for beginning the study of civics with local institutions.

The rather neglected field of party management and legislative methods has been given considerable space in this volume. Without some knowledge of these subjects, the student's conception of government is unreal. The teacher will have ample opportunity to gather much material on local politics and will have no difficulty in enlisting the aid of his students. A special study, for example, of the management of a recent campaign never fails to be stimulating to student and teacher alike.

References are given at the end of most of the chapters to works that are suitable for the use of students in high schools. Citations are always to the most recent editions, but older editions may readily be used by looking up the subject in the index. Few references have been given to articles in magazines, on the ground that a library which has a collection of periodicals will also contain Poole's Index or the Cumulative Index. Students will find a large number of magazine articles cited in these indexes and should be encouraged to make use of them.

The following books, which may be obtained for less than ten dollars, will be found most useful in a high-school library :

Bryce, "American Commonwealth" (unabridged edition).

Hart, "Actual Government."

Woodburn, "The American Republic."

A few newspaper almanacs will be found useful and they cost little. The best are those published by the Brooklyn *Eagle*, New York *Tribune*, New York *World*, and Chicago *News*.

Some teachers may doubt the value of the "questions on the text" printed at the end of each chapter. Most of these questions have been taken from among those recently given in college entrance examinations and by the Regents of the University of the State of New York, so they will, at least, show the student what kind of questions he may expect in such examinations. The "questions suggested by the text" should offer opportunities for further study and debate.

A. G. FRADENBURGH.

BROOKLYN, N.Y., Dec. 20, 1905.

CONTENTS

CHAPTER I

THE NATURE OF CIVIL GOVERNMENT

Necessity of Government — Civil Government and Civics — The State — The Origin of the State — Functions of Government — Kinds of Government — Monarchy — Democracy — Other Forms of Government — Constitutions — Departments of Government — Questions on the Text — Questions Suggested by the Text . . . 1

CHAPTER II

RURAL LOCAL GOVERNMENT

Origins of Town and County Governments — Importance of Local Government — Origin of American Local Government — Origin of the Town — The Manor — The English Parish — The Hundred — The Shire and the County in England — Questions on the Text — Questions Suggested by the Text 11

CHAPTER III

RURAL LOCAL GOVERNMENT

Town and County Government in America — Beginnings of the New England Town — The New England Town — Origin of County Government in New England — The Present New England County — The Country and People of the South — The Virginia Parish — The Beginning of the Virginia County — The Present Southern County — Town and County Government in the Middle Atlantic States — Town and County Government in New York — Local Government in the West — Questions on the Text — Questions Suggested by the Text — References . . 18

CHAPTER IV

THE GOVERNMENT OF CITIES

The English Borough — Definition of City — Growth of Cities — Reasons for Urban Growth — City Charters — Departments of City Government — The Mayor — Qualities a Mayor should Possess — City Administrative Departments — The City Legislative Department — The Duties of the City Legislative Department — Village Government — Departments of City Activity — Police Department — City Streets — The City and Public Education — Public Health — Parks and Recreation — Department of Charities and Correction — Other Lines of City Activity — The Government of New York City — The Charter — The Boroughs — The Mayor — Administrative Departments — Borough President — Boards of Local Improvements — Board of Estimate and Apportionment — The Board of Aldermen — Questions on the Text — Questions Suggested by the Text — References . . 29

CHAPTER V

SOME MUNICIPAL PROBLEMS

Misgovernment in American Cities — The Spoils System — City Politics *v.* State and National Politics — Municipal Home Rule — The City and Natural Monopolies — Arguments in Favor of Municipal Ownership — Arguments Against Municipal Ownership — Questions on the Text — Questions Suggested by the Text — References 46

CHAPTER VI

STATE GOVERNMENTS

Colonial Government — Colonial Legislatures — Origin of State Governments — Early State Constitutions — Present State Constitutions — Written Constitutions — Amendment of State Constitutions — The Sphere of State Governments — The Bill of Rights — Questions on the Text — Questions Suggested by the Text . 55

CHAPTER VII

STATE GOVERNMENTS (Continued)

State Governments — The Executive Department — The Gubernatorial Term — Qualifications of a Governor — Salaries of Governors — Other Executive Officers — State Administrative Boards — The State and Education — Railroad Commissions — Public Charities and Corrections — Other Administrative Boards — State Legislative Department — Process of Legislation — Initiative and Referendum — Limitations upon State Legislatures — State Privileges Guaranteed by the United States — Relations of the States to Each Other — Questions on the Text — Questions Suggested by the Text — References on State Governments . . 64

CHAPTER VIII

THE STATE JUDICIARY AND JUDICIAL TRIALS

State Courts — Selection of Judges — Impeachment of Judges — Early Form of Trial — Trial by Jury — Criminal and Civil Cases — The Beginning of a Criminal Trial — Trial of a Criminal Case — Trial of a Civil Case — Criticism of the Jury System — Questions on the Text 77

CHAPTER IX

ELECTIONS AND PARTY MACHINERY

Suffrage — Women Suffrage — Registration — Methods of Voting — The Counting of Ballots — Minority and Proportional Representation — Election Districts — The Caucus and Primary — Nominating Conventions — Nomination by Petition — The Party Machine — The Boss — Questions on the Text — Questions Suggested by the Text — References 88

CHAPTER X

STEPS TOWARD A NATIONAL GOVERNMENT

Colonial Conditions — New England Confederation — The Albany Conference — The Stamp Act Congress — The First Continental Congress (1774) — Second Continental Congress (1775–1781) — The Confederation — Nature of Government under the Articles of Confederation — The Powers of Congress — Weakness of the Government — The Annapolis Conference — Questions on the Text — Questions Suggested by the Text — References . . . 103

CHAPTER XI

MAKING THE CONSTITUTION

The Meeting of the Federal Convention — The Large *v.* the Small States; The Connecticut Compromise — The Three-Fifths Compromise — The Third Great Compromise — The Convention's Work Finished — Friends and Opponents of the Constitution — The Constitution Ratified — The Sources of the Constitution — Questions on the Text — Questions Suggested by the Text — References 111

CHAPTER XII

GENERAL VIEW OF THE CONSTITUTION

A Federal Republic — Departments of Government — System of Checks and Balances — Powers Given to the United States Government — Implied Powers — Amendments — The National Bill of Rights — Rarity of Amendments — Questions on the Text — Questions Suggested by the Text 118

CHAPTER XIII

EXECUTIVE DEPARTMENT

A Single Executive — Constitutional Qualifications — Term of Service and Salary — The Powers of the President — Executive Power — The Spoils System — Civil Service Reform — Power of Removal — The President's Use of Military Power — War Powers of the President — Legislative Power — Treaty-making Power — Pardoning Power — The Vice-President — Impeachment — Presidential Succession — Questions on the Text — Questions Suggested by the Text — References 124

CHAPTER XIV

THE NOMINATION AND ELECTION OF THE PRESIDENT

Rise of National Nominating Convention — Selection of Delegates to a National Convention — Meeting of a National Convention — The Campaign — Presidential Electors — Election by the House of Representatives — The Twelfth Amendment — The Election of 1824 — The Disputed Election of 1876 — Disputed Elections Act of 1887 — Questions on the Text — Questions Suggested by the Text 135

CHAPTER XV

THE CABINET AND EXECUTIVE DEPARTMENTS

The Cabinet — The English Cabinet — The Executive Departments — The Department of State — The Diplomatic Service — The Consular Service — The Treasury Department — The War Department — The Navy Department — The Department of the Interior — Post-office Department — The Department of Justice — The Department of Agriculture — The Department of Commerce and Labor — Separate Commissions and Boards — Questions on the Text — Questions Suggested by the Text — References 143

CHAPTER XVI

THE NATIONAL LEGISLATURE

Congress — The Senate — Qualifications of Senators — Election of Senators — The House of Representatives — Qualifications for Representatives — Apportionment of Representatives — Congressional Districts — Privileges and Remunerations of Members of Congress — Organization and Methods of Congress — Organization of the Senate — The Organization of the House of Representatives — The Speaker of the House — Criticism of the Committee System — Committee of the Whole — The Making of a Law — Filibustering — Congressional Publications — Questions on the Text — Questions Suggested by the Text — References . 159

CHAPTER XVII

THE POWERS OF CONGRESS

Powers Granted to Congress — Limitations upon the Authority of Congress — Limitations upon the Powers of Congress and of the States — Exclusive Powers of Each House of Congress — Questions on the Text — Questions Suggested by the Text 173

CHAPTER XVIII

THE RELATION OF CONGRESS TO COMMERCE

Commercial Powers of Congress — Commercial Treaties — The Panama Canal — American Shipping — Interstate Commerce — Railroad Consolidation and Resulting Problems — The Interstate Commerce Commission and its Powers — Anti-Trust Laws — Questions on the Text — Questions Suggested by the Text — References 178

CHAPTER XIX

FINANCIAL AND MONETARY SYSTEMS OF THE UNITED STATES

Public Finance — Public Expenditures — Public Revenues — Direct and Indirect Taxation — Federal Taxation in the United States — History of Federal Direct Taxation — Federal Taxes on Imports — Excise Taxes — State and Local Taxation — Taxes on Property — Poll Taxes — Corporation Taxes — Franchise Taxes — Inheritance and Income Taxes — Other Local Sources of Income — Exemptions from Taxation — Public Debts — Local Debts — Monetary System of the United States — Metallic Money of the United States — Coins of the United States — United States Paper Money — National Bank Notes — Questions on the Text — Questions Suggested by the Text — References 185

CHAPTER XX

MISCELLANEOUS POWERS OF CONGRESS

Citizenship — Naturalization — Bankruptcy — Patent and Copyright Laws — Military and Naval Powers of Congress — The United States Army — General Staff of the Army — The Militia — The United States Navy — Questions on the Text — Questions Suggested by the Text — References 201

CHAPTER XXI

THE FEDERAL JUDICIARY

Necessity of Federal Courts — Jurisdiction of Federal Courts — The Eleventh Amendment — The Supreme Court — Circuit Court of Appeals — Court of Claims — Appointment of Federal Judges — Inferior Federal Courts — District Courts — Circuit Courts — Court Officers — Relation Between State and Federal Courts — Questions on the Text — Questions Suggested by the Text — References 209

CHAPTER XXII

THE GOVERNMENT OF TERRITORIES AND DEPENDENCIES

The National Domain — Land Policy of the United States — The Results of the Public Land Policy — Government of Organized Territories — Unorganized Territories — How a Territory May Become a State — The District of Columbia — Insular Possessions — Porto Rico — The Philippines — The Sulu Islands — The Hawaiian Islands — Guam and Tsutuila — The Insular Pos-

sessions and the Constitution — Questions on the Text — Questions Suggested by the Text — References 215

CHAPTER XXIII

LEGAL RIGHTS AND OBLIGATIONS

Sources of Law — Object of Law — Personal and Real Property — Contracts — Conditions Necessary to a Contract — Remedy for Broken Contracts — Variety of Contracts — Title and Transfer of Real Estate — Mortgages — Contracts to Lease — Transfer of Property by Will — Promissory Notes — The Contract of Marriage — Parents and Children — Guardian and Ward — Master and Servant — International Law — Nature of International Law — War — Declaration of War — Rules Affecting Belligerents — Property of an Enemy in Time of War — Blockade — Right of Search — The Declaration of Paris — Obligations of Neutrals — Treaties of Peace — International Arbitration — Questions on the Text — Questions Suggested by the Text — References 224

SUPPLEMENT FOR NEW YORK STATE

New York as a Dutch Colony — New York as an English Colony — The First Assembly — New York as a Royal Province — The New York Constitutions — Amendment and Revision — Qualifications of Voters — Time of Elections — Local Government in New York — State Executive and Administrative Officers — The State Legislature — The State Judiciary — Courts of Justices of the Peace — County Courts — The Supreme Court — Trial and Special Terms of the Supreme Court — Appellate Division — Courts of Appeals — Public Education — The School Districts — Union Free Schools — City School Systems — The New York State Education Department — Other State Educational Activities 287

ABSTRACT OF THE CONSTITUTION OF THE STATE OF NEW YORK

Personal Rights — Voting — The Legislature — The Executive Department — Officers of Administration — The Judiciary — State Property and Debts — Corporations, Public Funds — Education — Officers — The Militia — Cities — Oath of Office, Bribery and Corruption — Amendments 302

AMERICAN CIVICS

CHAPTER I

THE NATURE OF CIVIL GOVERNMENT

Necessity of Government. — Man is one of the most social of beings; the greater part of the life of most men is spent in the company of other human beings. To such an extent has this been the case that in all ages, persons who have chosen to live by themselves in places remote from other men have been regarded as at least peculiar.

Since men are not morally perfect, there must be in every association some rules to govern conduct and some power to enforce these rules. Any exercise of authority is *Government*. Such terms as family government, school government, and church government are familiar to everyone. Society, which is the collective body of persons composing a community, finds it necessary to regulate the conduct of its members. The individual must be protected in his person and property against the aggressions of the strong and unscrupulous. Disputes between persons are sure to arise and there must be some power above the individual to decide what is justice and to enforce its decision. Moreover, means of protection against possible foes is needed and there are works of public utility which it would be unwise to entrust to private individuals, or which individuals would not find it to their advantage to construct. A community organized for the purpose of

government is called a politically organized community, and members of such a community are citizens.

Civil Government and Civics. — Civil Government is the authority which regulates the conduct of citizens among themselves and toward the government. The science which treats of civil government is usually known as *Civics*. Civics is chiefly concerned with: (1) the history of political development; (2) the organization of government; (3) the rights and duties of citizenship.

The State. — A State is an independent body of politically organized persons occupying a definite territory. The State must be the supreme power within its land; the possession of such power is called *sovereignty*. If one person exercises supreme power the State is a monarchy; if sovereignty is possessed by the people, the State is a democracy or a republic. The commonwealths, or "states" of our American Union are not real states. They do not possess complete sovereignty; there is only one sovereign State in America and that is the United States.[1]

The Origin of the State. — Many are the theories that have been advanced at various times to explain the origin of the State. The three leading theories will be considered in their historical order.

1. *The Theory of Divine Origin.* — The ancient Jews considered their State as having been founded by God and regarded Him as its ruler. The Greeks and Romans

[1] "State" in this sense is capitalized in this work; when used in reference to one of the states of our Union no capital is used, except in quotations.

regarded the State as a divine institution though not directly ruled by the gods. "It seemed clear to them that the destiny of that great moral community which we call the State could not be separated from the will and working of deity." (Bluntschli.) Rightly interpreted, a theory of divine origin is not only defensible, but is ennobling. Man being a "political animal," the State is a natural result of his creation. Aristotle was right in saying that "the State comes into being for the sake of mere life, but it continues to exist for the sake of the good life." There is nothing inconsistent between a theory that the State is a divine institution and the later theories of the origin of the State.

2. *The Contract Theory.* — According to this theory, there was once a time when there was no government, or anarchy. So many evils resulted from the absence of government that men established the State by mutual agreement. This theory was advanced by certain philosophers in the seventeenth and eighteenth centuries, and was widely accepted, especially in France, by the end of the eighteenth century. The theory never had any historical basis. We know that the individual counted for nothing in ancient society and could have made no contract. The only truth in the theory is that modern governments are often altered by agreement.

3. *The Historical Theory.* — This theory ascribes the origin of the State to the political nature of man. The earliest government was that of the father, and the family was the germ of the State.

Homer, in "The Odyssey" (Book IX, 137-140, Bryant's translation), describes what was perhaps the earliest form of family government:

"On the mountain heights they dwell
In vaulted caves, where each one rules his wives
And children as he pleases; none give heed
To what the others do."

A number of families would unite for the purpose of defense or offense, and the tribe was formed. The fiction of common descent would still be preserved. "Suppose a single household to move out into the wilds and found a new settlement, it begins under the rule of the father, who, as new huts are built round the first house, remains head of the growing clan; but as old age comes on, his eldest son more and more acts in his name, and at his death will be recognized as succeeding him in the headship of the community. Here then, is seen the rise of the hereditary chief or patriarch of the tribe, first in rank as representing the ancestor, and with more or less real authority."[1] This patriarchal system is familiar through descriptions in the Old Testament; it to-day exists in many parts of the world. When a war begins, the patriarchal ruler may be displaced by a war chief who may continue to rule after the war is over, thus establishing a new dynasty. The union of tribes forms a nation, which is a State if it occupies definite territory and is independent.

This historical or natural theory of the origin of the State corresponds to what we know about the early history of .government, and is strengthened by our knowledge concerning the government of contemporary savage and barbarous tribes.

Functions of Government. — In showing the necessity of government, we have already mentioned some of the chief

[1] Tylor, "Anthropology," p. 429.

functions of government. It is usual to divide the functions of government into necessary and optional, though such a classification cannot be very definite, as among some nations functions are regarded as necessary which among other nations are considered optional, and what is to-day considered necessary may have been regarded as optional a few years ago.

The following classification by President Woodrow Wilson ("The State," 613–615), not represented as complete, gives a fair idea of the functions of government:

I. *The Constituent* (or necessary) *Functions:*

1. The keeping of order and providing for the protection of persons and property from violence and robbery.

2. The fixing of the legal relations between man and wife and between parents and children.

3. The regulation of the holding, transmission, and interchange of property, and the determination of its liabilities for debt or for crime.

4. The determination of contract rights between individuals.

5. The definition and punishment of crime.

6. The administration of justice in civil cases.

7. The determination of the political duties, privileges, and relations of citizens.

8. Dealings of the State with foreign powers; the preservation of the State from external danger or encroachment, and the advancement of international interests.

These will all be recognized as functions which are obnoxious not even to the principles of Mr. Spencer,[1] and which, of course, persist under every form of government.

II. *The Ministrant* (or optional) *Functions.* It is

[1] As set forth in his pamphlet, *Man versus the State.*

hardly possible to give a complete list of those functions which I have called ministrant, so various are they under different systems of government; the following partial list will suffice, however, for the purpose of the present discussion:

1. The regulation of trade and industry. Under this head I would include the coinage of money and the establishment of standard weights and measures, laws against forestalling, engrossing, the licensing of trades, etc., as well as the great matters of tariffs, navigation laws, and the like.

2. The regulation of labor.

3. The maintenance of thoroughfares — including State management of railways and that great group of undertakings which we embrace within the comprehensive term "Internal Improvements," or "Development of the Country."

4. The maintenance of postal and telegraph systems, which is very similar to 3.

5. The manufacture and distribution of gas, the maintenance of water works, etc.

6. Sanitation, including the regulation of trades for sanitary purposes.

7. Education.

8. Care of the poor and incapable.

9. Care and cultivation of forests and like matters, such as the stocking of rivers with fish.

10. Sumptuary laws, such as prohibition laws, for example.

The extent to which it is wise for a government to undertake these ministrant functions is one of the most debated questions of the day. Some governments engage in many

more lines of activity than those enumerated above; the tendency is to extend the activity of governments along these lines.

A policy in opposition to governmental activity in industry and in opposition to interference of the government with the liberty of the individual in his industrial activity, is called a *laisser-faire* (let-alone) policy, from the motto of the French physiocrats.

Kinds of Government. — Monarchy. — A monarchical form of government is one in which the government has at its head a personal ruler. Monarchies are of two kinds, absolute and limited.

1. The ruler of an absolute monarchy is not subject to any definite control; subjects are compelled to obey his commands. Even absolute monarchs, if they are wise, are wont to defer more or less to the wishes of their subjects, either through a sense of duty or through fear of exciting rebellion. The absolute form of monarchy exists among civilized nations only in Russia [1] and Turkey.

2. A limited monarchy is one in which the power of the ruler is limited either by a written document, which defines the powers of the sovereign, or by laws and customs. Limited monarchies are often called constitutional monarchies. A monarchy may be limited to such an extent as to make it practically a republic. England is an example of such a monarchy, as Bagehot [2] has said, the king of England would be obliged to sign his own death

[1] As this chapter is being written, Russia seems to be in throes of a revolution which may result in her entering the family of constitutional governments.

[2] The "English Constitution," p. 125.

warrant, if Parliament so decreed. The elective House of Commons governs England, and England is, therefore, a republic in the guise of a monarchy.

Democracy. — Democracy is government by the people. Democracies are of two kinds, pure democracies and republics.

1. In a pure democracy the sovereign people express their will by means of a popular assembly. Many of the Greek city-states so ruled themselves. The New England town meeting is an example of a pure democracy, in this case limited to local affairs. A pure democracy is, by its nature, possible only in small communities.

2. The people of a republic govern themselves through representatives of their own selection. In a republic, just as in a pure democracy, the people are sovereign.

Other Forms of Government. — Aristocracy is government by a class of nobles, or by persons eminent because of wealth or culture. In most governments of Europe there is one house of parliament that is composed of nobles, thus giving an element of aristocracy to the government.

A tyranny is a government in which arbitrary power is unjustly or arbitrarily exercised. Originally, as used by the Greeks, the term tyrant was applied to any ruler who had obtained his position illegally, and it is now sometimes so used. Sometimes a tyranny is called a despotism. A monarchy may be a tyranny ; a rather frequent form of despotism has been one created by some successful soldier. Many of the so-called republics of South America are in fact military despotisms.

Constitutions. — The fundamental law of a state which determines its form of government and the rights and duties of citizens is called a constitution. In case the nature of the government is expressed in some written document, the state is said to have a written constitution. The United States and each state in the Union have written constitutions. Instead of a written constitution, the fundamental law of a state may be based upon a long line of customs and concessions gained from kings, in which case the state is said to have an unwritten constitution. It should not be thought that all of the constitution is written in the one case, or unwritten in the other.

The Constitution of the United States has undergone many changes, necessary on account of new developments, and these changes have generally taken place without formal amendments.[1] Customs and interpretation have had no less effect upon the Constitution of the United States than amendments. England has a constitution which we call unwritten, but Magna Charta and the Bill of Rights have often been called the bulwarks of the British Constitution.

Departments of Government. — Every government must have three departments: (1) A legislature to make the laws, (2) a judiciary to interpret and apply them, (3) an executive to enforce the laws. These powers are all exercised by the same person if the state is an absolute monarchy. In all other forms of government the powers are kept more or less distinct.

In the United States they are carefully separated, yet

[1] See Tiedman, "The Unwritten Constitution of the United States."

the President of the United States, primarily an executive officer, has the legislative power of veto and the judicial power of pardon, while the Senate acts in certain cases of impeachment as a court and exercises executive power in confirming certain appointments.

QUESTIONS ON THE TEXT

1. Prove that the State is a necessary organ of society.
2. Define society, government, civics, sovereignty, constitution.
3. What are the three leading theories concerning the origin of the State? What element of truth is there in each of them?
4. Distinguish between the necessary and optional functions of government. Do you consider the latter functions as really optional?
5. Give an example of an absolute monarchy, a pure democracy, a military despotism.

QUESTIONS SUGGESTED BY THE TEXT

1. Is it true that if all people were good, government would be unnecessary?
2. Consult a good dictionary in regard to the meaning of the words "nation" and "state." Name a nation which is not represented by a state.
3. Show that democracy is the best form of government for an enlightened people.
4. Name some ministrant or optional functions of government not specifically mentioned in the text.
5. What have been the reasons for the recent increase in the exercise of optional functions of government?

CHAPTER II

RURAL LOCAL GOVERNMENT

Origins of Town and County Governments

Importance of Local Government. — Americans live under three distinct governmental institutions. For local affairs we have the town (or township), county, village, and city. Matters of wider interest are intrusted to the state, while the Federal Government attends to those things which affect the entire nation. Local government is concerned with such important affairs as schools, roads and bridges, police, minor courts of justice, and the care of the poor. Such matters as these have a daily influence upon the citizen. It is in exercising local self-government that citizens gain the most important political lessons, those of experience. Every voter can to some extent make his influence felt in local affairs.

Local governmental institutions differ in one important particular from the national and state governments. Written constitutions define the activities of our national and state governments and within their fields the nation and state exercise unlimited authority. Local governments have no such power. All local governments are subject to the state, which may alter or regulate them at its pleasure. Though local governments are subordinate to the states they are older than either state or national government.

Origin of American Local Government. — Were a company of Americans to settle in some location where no

government had existed, they would have no hesitation in deciding what kind of a government to establish. There would be one form of government which to them would be clearly better than any other form, and that would be the one to which they had been accustomed. It is an axiom to students of history and government, that institutions do not suddenly spring into existence, but are the results of long experience. The English colonists in America brought with them institutions with which they were familiar, just as their ancestors long before had brought the progenitors of these institutions from the Continent of Europe into England. In order to understand the local government introduced by the colonists it is necessary to know something about the institutions with which they were familiar before coming to America.

Origin of the Town. — Long before our Germanic ancestors came to England, they had given up their nomadic habits and had settled in groups of families in such places as attracted them on account of water, wood, and fertility of the soil. For purpose of defense the land occupied was surrounded by a strip of waste land called a *mark* (originally meaning boundary); a little later a hedge or stockade called a *tun* (pronounced toon) marked the boundary of the community's land. The entire space enclosed became known as the mark or tun; in England the word "tun" or town became the accepted designation.

Little is known of the nature of government in the Germanic mark, but we do know that there was a popular assembly and that the government was to a considerable extent, at least, democratic.

At about the middle of the fifth century of the Christian

era, bands of Germanic wanderers commenced to cross over to England. They went at first for plunder, but a little later they commenced to enter England as families and tribes for the purpose of finding permanent homes. They brought with them their governmental institutions, and we find in England the freemen of each town holding a *tungemot*, or town meeting, in which important business was transacted and by-laws (town laws) for the government of the town adopted. Every freeman had a right to attend this town meeting; it was therefore a *primary assembly*. In town meeting the principal officers of the town were elected by the people, though when the power of the great lords grew, the officers of the lord took the place of the older elective officers. The principal officers were the reeve, or headman, the tithingman, or constable, and the beadle, or messenger.

The Manor. — As early as the beginning of the tenth century, the majority of the towns had fallen under the control of the great lords, and the lord's stewart and bailiff had supplanted the old elective reeve and beadle. The Norman Conquest, in 1066, completed the work of destroying the old free towns. Feudalism was then fully established, and feudalism had no place for such an institution as the old English town. Generally what had been the town was now thought of as a lord's possession and became known as a manor, a French term denoting dwelling place. Most of the officers of the manor were representatives of the lord, but not every vestige of self-government was lost. The idea of town meeting still was kept alive by the *court-leet* and *court-baron*, two assemblies which, however, had little real influence.

The English Parish. — The parish is a much older institution than the manor. After the Anglo-Saxons had been converted to Christianity, the need of some unit for ecclesiastical administration arose. This unit naturally coincided in area with the old township, though at times two or more townships were included in a parish.

Church business was transacted in an assembly known as a vestry meeting, so called since it was held in the room where vestments were kept. The vestry meeting gained the power of voting the taxes for the support of the church, and became concerned with certain civil affairs. All rate payers might speak and vote in vestry meeting. In the parish, local self-government was kept alive, after it had to a great extent disappeared in the manor.

The Hundred. — The hundred, like the town, was an ancient Germanic institution. The origin of the name "hundred" is not exactly known; it seems first to have been applied to a group of towns which furnished an hundred warriors to the army. In England the hundred is first mentioned in the laws of Eadgar, though it probably existed from the time of the first Germanic settlement.

The hundred, after Germanic institutions had assumed definite shape in England, was a governmental district composing several townships, but smaller than a county. The hundred as it existed in England was chiefly for judicial purposes. There was an hundred court, which was composed of the chief lords of the hundred and "the reeve and four best men" from each township. The hundred court was not, therefore, a primary assembly, but was a *representative assembly*.

"In this we see the germ of that representative system

which characterizes English civil and ecclesiastical government. From this humble beginning it has gradually expanded until it now embraces the United Church in convocation and the United Kingdom in the House of Commons; while in America it has proven its capacity to bind together in a strong union a still broader empire. Simple as is the expedient of popular representation, it never once occurred to the Hellenic or Roman world save, perhaps, vaguely in the decline of the Grecian States."[1]

The Norman Conquest caused the hundred to decline, and, though revived from time to time, it was of little importance in England when American colonization was taking place.

The Shire and the County in England. — Our forefathers settled in England not merely as groups of families, or clans, but also as groups of clans or tribes. Just as the clans became the makers of townships, so the tribes formed governmental bodies called shires.

The name "shire" was first applied to the people of a tribe as is indicated in such shire names as Essex (East Saxons), Sussex, etc. Each shire had a representative assembly known as the shire-mote. To this shire-mote came the lords, the "reeve and four best men" from each township, and when boroughs and cities grew they also sent representatives. The shire-mote was chiefly a judicial body though it possessed some legislative power. The leading man of each shire was known as an "ealdorman." The shires in time grew into kingdoms, several shires uniting made larger kingdoms, and at last the king of the West Saxons became king of all England. The shire remained as an organ of local government after England

[1] Howard, "Local Constitutional History," p. 22.

became a kingdom. There were now two ealdormen appointed by the king in each shire, and a shire reefe (sheriff) elected by the people.

The Norman Conquest deeply affected the shire, as it did all old English institutions; its name was changed to county, because it was similar to a local division in France over which a count (*comes*) presided. The shire-mote became a county court in which the king's justice tried cases. There were no longer any ealdormen, and the sheriff was appointed by the king and was responsible to him. The sheriff was the king's chief officer in the county; to him was entrusted the duty of seeing that taxes were collected, and of summoning jurors and seeing that the judgments of the court were enforced. Another important officer was the coroner (crowner), originally appointed by the king, but since the time of Edward I elected. His duties were to hold a court of inquiry over any sudden calamity such as unexpected death, loss of property by fire, etc. In time, the coroner's duty was limited to holding inquests over sudden deaths. Edward III commenced the practice of appointing justices of the peace. Originally there were six of these officers in each county. They were appointed originally to check brigandage, but their power gradually increased until their courts supplanted the old county court. Sessions of the court were held quarterly, hence called Courts of Quarterly Sessions.

Note. — English local institutions have been greatly changed since the seventeenth century. Some of these changes were taking place at the time of English colonization of America; especially is this true of the vestry meeting, which was losing its democratic character.

QUESTIONS ON THE TEXT

1. Why should Americans be interested in the study of English governmental institutions?
2. Describe the origin of the English town, hundred, and shire.
3. Show what changes took place in the town, hundred, and shire, as a result of the Norman Conquest.
4. What importance is attached to the hundred court because of its being a representative body?

QUESTIONS SUGGESTED BY THE TEXT

1. If local government is of so much importance, why is it so often neglected by the people?
2. In what sense is the word "parish" now used in the United States?
3. Can we anticipate that the Republic of Cuba will be governed as well as though its inhabitants were of Anglo-Saxon origin?

CHAPTER III

RURAL LOCAL GOVERNMENT

Town and County Government in America

Beginnings of the New England Town. — The earliest colonists came to New England not as individuals, but as members of church organizations, often led by their pastors. One of their first acts usually was to erect a church building at some convenient point. They were generally Congregationalists, who believed that each church should be independent and self-governing. Near the church was, as a rule, a strip of land owned by the whole community, the beginning of the New England common. These little communities were bound together not only by the ties of the church, but also by the necessity of defense against hostile Indians and the not far distant French. On a commanding spot they erected a blockhouse, or fort, to which they might retire in time of danger. The character of the soil was a further bond of union. New England does not tempt persons to take up large estates; much labor on a small area of land is necessary in order to make a living from the soil. Among the colonists there were social distinctions, but no sharp divisions into social classes.

The settlers, being at first left pretty much alone by the home government, managed civil and religious affairs to suit themselves. Even before landing, the Pilgrims, while the *Mayflower* was lying off Cape Cod, drew up a notable agreement in regard to government. This famous document, signed by the forty-one adult males of the company on November 11, 1620, read as follows:

"We whose names are under-written, the loyall subjects of our dread soveraigne Lord, King James, by ye grace of God of Great Britaine, Franc, & Ireland king, defender of ye faith, &c., haveing undertaked, for ye glorie of God and advancements of ye Christian faith, and honour of our King and Countrie, a voyage to plant ye first Colonie in ye Northerne parts of Virginia, doe by these presents and solemnly and mutually in ye presence of God, and one of another Covenant and combine ourselves togeather into a civill body politick, for our better ordering and preservation and furtherance of ye ends aforesaid; and *by vertue hearof* to enacte, constitute, and frame such just and equall lawes, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meete and convenient for ye generall good of ye Colonie, unto which we promise all due submission and obedience."

The government which the colonists established was modeled upon the type of the English parish, which still had a general meeting of the rate payers and possessed both civil and ecclesiastical functions. Church and State were closely related at first, and in some colonies only church members could vote. Taxes were levied for church purposes.

In coming to America new vitality was given to what remained of English democratic institutions, so that, as has often been stated, the Germanic mark was unconsciously revived in New England.

The New England Town. — In local affairs the people of a New England town[1] govern themselves directly by

[1] In many parts of the country the term "township" is used instead of "town." Town in this sense has, of course, no relation to village.

means of a popular assembly composed of all the voters. New England town government is therefore pure democracy. There is an annual town meeting, usually in March, which holds sessions in the town hall. Special meetings may be held whenever necessity arises. At the town meeting any voter has the right to make motions and support them with his voice. A moderator, chosen at the meeting, presides over its deliberations. All important town officials are chosen at the town meeting, the most important of which are the selectmen of whom there are from three to nine. The selectmen act as executive officers for the town in all cases, unless other provision is made by the town meeting, and have general charge of town interests. In legal matters they represent the town, which is legally a public corporation. Other town officials are the town clerk, treasurer, school committee, constables, tax collectors, and assessors. Among the usual minor officials are field drivers, who take stray animals to the pound, fence viewers, to whom disputes over boundary fences may be referred and who may order fences and walls built or repaired, surveyors of lumber, and sealers of weights and measures. To the town meeting belong all the essentials of local government. It passes local enactments and makes provision for such important matters as schools, roads, poor relief, and assessment and collection of taxes. New England towns seldom exceed five square miles in area and the population is not large.[1]

The town meeting is not suited to the government of a

[1] Generally between 1,200 and 2,500. "In population they vary from Cambridge, New Hampshire, with seventeen people, to Warwick, Rhode Island, with 21,000 people." — Hart, "Actual Government," p. 170.

large population, and when population reaches such a figure as to make it desirable, a city charter is generally sought. In some parts of New England town government has been disadvantageously affected by the foreign population; however, the town meeting remains "the most characteristic and vital element of local government in New England."

Origin of County Government in New England. — The county as established in America was modeled upon the English county or shire. Counties first appear in Massachusetts owing to a demand for judicial districts between the township and the province. In 1636, the General Court appointed Boston, Cambridge, Salem, and Ipswich as places for the holding of quarterly courts.[1]

Massachusetts was divided into four "sheires" or counties in 1643, the jurisdiction being about the same as provided in the act of 1636. Connecticut was divided into counties in 1665, Plymouth in 1685, and Rhode Island in 1703. Counties were little more than divisions for judicial purposes, though in Connecticut the train bands of the town united to form a county regiment, and in Massachusetts the county, in addition to being a judicial district, was a higher military district, an area for tax rating and equalization, and a factor in certain official nominations.[2]

[1] The records of many of these courts are still preserved. Such entries as the following are quite common:

"Geo. Dill fined 40^{s} for drunkenes, & to Stand at the meeting hous doar next Lecture Day, wth a Clefte stick vpon his Tong, & a pap (er) vpon his hatt subscribed for gross p^{r}meditated Lying." — "Hist. Coll., Essex Inst.," Vol. VII., p. 239. See Howard, "Local Const. Hist.," pp. 326–327.

[2] Howard, "Local Const. Hist.," Vol. I, pp. 327–357.

The Present New England County. — Throughout New England the county remains chiefly a judicial district, in Rhode Island it is nothing more. Each county maintains the usual court machinery. In some cases the care of the poor is a county function, though it usually falls to the town.

In Massachusetts the county is more highly developed than in any other New England state; a brief account of county government in that state is therefore appended. In each county of Massachusetts, the Superior Court of the state tries cases, and must hold at least two sessions annually. A probate court has charge of matters relating to wills, estates, and guardianships. The chief executive officer of the courts is the sheriff, who is elected by the people for a term of three years. It is his duty, in addition to seeing that the decisions of the court are executed, to maintain order within the county. In case disorder arises which he is unable to suppress, he may summon a body of citizens (*posse comitatus*) to his assistance. Should disorder still continue, he may call upon the governor of the state for troops. An appeal, through the state legislature, or the governor if the legislature be not in session, may be made to the President of the United States for Federal aid.

The governor appoints justices of the peace within each county for a term of seven years. They have authority to administer oaths, unite persons in matrimony, issue certain warrants, and preside over trials in certain petty cases. Three county commissioners have general charge of the county property. They serve for a term of three years, one retiring each year. The commissioners represent the county, which is legally a corporation, in all suits at law

to which it may be a party, apportion county taxes among the towns and have charge of county highways.

A county treasurer receives and disburses the county funds.

The Country and People of the South. — Conditions in the South were quite different from those in New England. Here the soil was as a rule rich and invited settlers to large estates. Convenient rivers offered means of transportation, often to the very storehouses of the planters. The settlers as a rule did not come from religious motives, and hence the church did not serve as a common bond. There was no such need of common defense against the Indians as in New England. Villages were few. The planter generally sent his goods to the markets of England, the West Indies, or the northern colonies, and imported what goods he could not raise on his own estates.

Instead of the homogeneous population of New England, there were sharp social divisions. At the top of the social scale were the planters, who monopolized political power; at its foot were the poor whites, descendants of indentured white servants,[1] and negro slaves. Between them there was no adequate middle class. For such a population the democratic New England form of government was unsuited. Local government in the South was of many varieties, but that of Virginia serves as a fair example.

[1] Indentured white servants came from three classes: (1) free persons who could not pay their passage, and hence contracted to sell their labor for a term of years to some one who would advance the money to pay the expense of the journey; (2) English political or criminal offenders sold in servitude for a term of years; (3) a small class of colonists sold into servitude for a term of years on account of criminal offenses or for non-payment of debts.

The Virginia Parish. — The English parish was introduced into Virginia, but it never became a democratic institution. For church purposes there was a select vestry of twelve men, at first elected by the people, but they obtained the power of filling vacancies in their own body, and thus became a "close corporation." In addition to their ecclesiastical duties they usually acted as overseers of the poor.

The Beginning of the Virginia County. — In 1634 the legislature of Virginia divided the colony into eight shires, and these speedily became the units of local government. The governor appointed justices of the peace, usually eight in number, who composed a county court similar to the English Court of Quarter Sessions. This court in time began to nominate candidates to fill vacancies in its own body, and the governor generally appointed the nominees without question. The county court was now like the parish vestry, a close corporation. In addition to its duties as a judicial body, the court appointed highway surveyors and constables, assessed county taxes, and had care of county property. The county sheriff, appointed by the governor, was, in addition to his duties as executive officer of the court, a collector of taxes and county treasurer. In Virginia and the South generally, the great mass of the people had little to do with local government, and therefore failed to receive the political education which the town meeting so abundantly gave New England. The county system did, however, and notably in Virginia, develop able political leaders among the aristocracy of the planters.

The Present Southern County. — Throughout the South the county remains the unit of local government, notwith-

standing efforts to introduce the town system. In most of the southern states there are elected from three to five commissioners, whose duties are similar to those of the Massachusetts commissioners.

Practically all local government belongs to the county, though in every state there are subdivisions of the county which are school districts. In Louisiana the district corresponding to the county of other states is called the parish, and in Delaware the old hundred survives in name and is the unit for representation in the state legislature.

Town and County Government in the Middle Atlantic States. — The middle states in reference to population as well as in the character of the country, are midway between New England and the South. Their system of local government, as might be expected, is a compromise between the extremes of town and county types. In the middle states, Pennsylvania inclines most to the county type, while New York has a system of local government in which the town is still an important factor.

In Pennsylvania, county and township date from early colonial times. William Penn reconstructed local government in the colony, so that most of the important functions were given to the county, and there they have remained to the present time. Most of the county officers are elected by the people. Each county has a board of three county commissioners, one of whom must belong to the minority political party, elected for a term of three years. The county commissioners have charge of the county property, represent the county in court, and fix the county tax rate, though the taxes are collected by township collectors. Each county has such officials as sheriff, treasurer, clerk

of courts, register and recorder, prothonotary, coroner, and auditor. A district attorney, elected by the people, is prosecuting attorney in criminal cases. A county judge, elected for a term of ten years, presides over the county courts. The Pennsylvania township is of minor importance. There are no town meetings. In each township are road supervisors, tax assessors and collectors, six school directors, two justices of peace, and a constable. The care of the poor is a township function, except in counties possessing poorhouses.

Town and County Government in New York. — In New York the town assumes greater importance than in any other of the Middle Atlantic states. Its history begins in the village assemblies of the Dutch, which evolved into town meetings under English occupation. Town meetings are held every two years, generally on the second Tuesday of February, though they may be held any time between February first and May first. At the town meeting by-laws are adopted and other town business, including the election of officers, transacted. The supervisor is the chief town executive officer. In addition to his executive duties he acts as treasurer, except in case of moneys raised for poor relief and for bridges and highways, and represents the town in legal actions to which it is a party. Other town officials are town clerk, four justices of peace, constables (number to be determined by vote of the town, but not to exceed five), three tax assessors, a tax collector, highway commissioners, and usually an overseer of the poor, though often the county attends to poor relief.

A board of supervisors, composed of the supervisor from each town, has general charge of county business. The

duties of the board are similar to those of the Pennsylvania county commissioners. A county court is maintained, except in New York county, over which a judge elected by the voters for a period of six years presides.

In counties having a population of over 40,000 there is a surrogate's court. The surrogate is elected for a term of six years, and his court has charge of the settlement of estates, the guardianship of orphans, and matters relating to wills. Where there is no surrogate, the county judge acts as surrogate. Other county officials are the sheriff, four coroners, county clerk, county treasurer, superintendent of poor, and a school commissioner.

Local Government in the West. — Local government throughout the West resembles the system of New York or Pennsylvania, and is, therefore, a compromise between the town and county system. In some states the town is the more important; in others the chief functions of local government are exercised by the county. The men who established state and local governments in the West were chiefly emigrants from the eastern states, and as a rule they followed parallels of latitude in their western journey. The tendency everywhere was to establish a form of local government similar to that which the settlers had been accustomed in the East. In settling the public domain at least one section (640 acres) in every township was reserved for school purposes. This princely endowment not only served the cause of public education, but had its effect on local government. The township was foreordained to be a school district at least.

QUESTIONS ON THE TEXT

1. Show the influence of the character of the country on local government in New England and the South.

2. Compare the merits of the town with the county system of local government.

3. Describe the origin of local government in the West.

4. Why is the town meeting not suitable for a large population?

5. Describe the duties of the sheriff.

QUESTIONS SUGGESTED BY THE TEXT

1. Describe town and county government in your own state. Is its local government modeled upon the town, county, or "mixed" system? Account for its system.

2. What restrictions are placed upon the action of town and county governments in your state? (Consult a lawyer if convenient.)

3. Show how it happens that in some states there is more than one system of local government in operation. Bryce, I, 600–601.

4. How many towns (or townships) are there in your county? How many counties in your state?

5. Why are counties and townships more equal in size in the West than in the East, and why are boundary lines more regular in the West?

6. Are there any counties in your state that are not divided into towns (or townships)?

REFERENCES

Bryce, "American Commonwealth," Vol. I, Chapters XLVIII, XLIX.

Hart, "Actual Government," Chapter X.

Wilson, "The State," §§ 1033–1040, 1209–1259.

Fiske, "Civil Government," pp. 16–97.

The Johns Hopkins University *Studies* contain many valuable monographs on local government in various states.

CHAPTER IV

THE GOVERNMENT OF CITIES

The English Borough. — The English borough was an outgrowth of the Anglo-Saxon tun. Several of these communities, when near together, would gradually unite in a larger group and build a fort, which was called a burg or borough, a name which in time was applied to the entire settlement.

In the earliest times the borough differed from the town only in size and strength, but when the smaller towns became subject to a lord, the boroughs retained a larger portion of liberty.

The borough, being comparable to an hundred, soon gained its own court and, when its size made it comparable to a county, it obtained a sheriff and a higher court, similar to a county court.

Within these boroughs commerce and manufacturing flourished and the persons engaged in these pursuits united in associations, called *guilds*, which were designed to protect them from the feudal nobility and otherwise to benefit the members. In time every important borough had its guilds, such as those of mercers, goldsmiths, weavers, etc. The guilds became politically the masters of the city, as we may now call the borough, and in time united in one great city organization. English kings, both in order to attach the cities to themselves and to obtain money, the need of which kings always felt, would grant the cities important immunities and privileges in exchange for cash payments. A written document, known as a

charter, certified that the city was entitled to these benefits and was signed by the king. Great feudal lords in the same manner often granted immunities. In this mann English cities, as well as those on the Continent, became centers of liberty. Henry II and his immediate successors granted many such charters. By the fourteenth century most of the authority of the guilds passed to the borough, or city.

The borough regulated trade and commerce, even to the extent of quality and maximum price of food, controlled public markets, fixed the rate of wages, maintained armed forces, and exercised many functions which we now regard as belonging to the nation. Many boroughs had the privilege of maintaining their own courts, over which magistrates elected by the citizens presided. A much prized borough privilege was the sending of representatives to the House of Commons.

The boroughs gradually fell from their high positions; even in the fourteenth century they began to decline in political importance.

Owing to the growth of national sentiment, increased means of communication, and industrial changes, national regulations replaced city authority, and the cities lost their independent positions. Membership in the municipal corporation was restricted until the borough became a close corporation. Such was the condition of English cities when American cities were beginning to rise, and such it remained until the municipal reform acts of 1832 and 1835.

English cities at that time afforded America no example of good city government, yet they furnished the models for our earliest city governments.

Definition of City. — The term "city" does not convey the same impression in all parts of the United States. In

many parts of the West a population of a few hundred suffices for a city charter; in other parts of the country places with a population of several thousand are still organized as towns or villages. Some states require a certain population prior to the incorporation of a community as a city; others have no definite requirements. For census purposes the United States Census Bureau classes all places of a comparatively small area containing 8,000 or more inhabitants as cities. An urban community with a population of 8,000 or more may be regarded as a city whether legally so or not; its needs and responsibilities class it as a city.

Growth of Cities. — In all progressive countries cities have grown very rapidly within the last thirty years. The following table shows the increase in the urban population of the United States since 1790, the year of the first census.

Census Years.	Total population.	Urban population.[1]	Number of places.	Per cent of urban of total population.
1900	75,477,467	24,992,199	545	33.1
1890	62,622,250	18,272,503	447	29.2
1880	50,155,783	11,318,547	286	22.6
1870	38,558,371	8,071,875	226	20.9
1860	31,443,321	5,072,256	141	16.1
1850	23,191,876	2,897,586	85	12.5
1840	17,069,453	1,453,994	44	8.5
1830	12,866,020	864,509	26	6.7
1820	9,638,453	475,135	13	4.9
1810	7,239,881	356,920	11	4.9
1800	5,308,483	210,873	6	4.0
1790	3,929,214	131,472	6	3.4

[1] Population of places of 8,000 inhabitants or more at each census.

When the first census was taken there were only six places which could boast a population of 8,000 or more, and Philadelphia, the largest of these, had only 42,000 inhabitants. To-day New York City with its 3,437,202 people, needs less than half a million more inhabitants in order to equal the entire population of the United States in 1790. In the North Atlantic states 51.81 per cent of the population now live in cities, and in New York and Massachusetts, the population in the rural districts is actually decreasing.

Reasons for Urban Growth. — The chief reasons for the growth of cities have been economic. Every improvement in farm machinery has lessened the comparative number of laborers needed in rural districts and every improvement in transportation has led to the growth of manufacturing and commercial establishments in the cities. Manufacturing plants and commercial establishments have been concentrated in cities to a large degree. Most men who have left the country for the city have done so because the latter offered better business advantages.

City Charters. — Every city is a public corporation, created by an act of the state legislature. This legislation is known as a charter. The charter provides for all departments of city government. In some of the states there is a general form of charter, applicable to all cities of a certain size. This plan is regarded as superior to

Note. — The increase in urban population, contrary to popular opinion, is not peculiar to the United States. In the decade 1890–1900 Hamburg increased in population more rapidly than Chicago, Munich more rapidly than Buffalo, Frankfort more rapidly than Pittsburg, Leipzig more rapidly than St. Louis.

special charter legislation as it prevents mistakes and too hasty action.

There is a great variety of city government in states which have no uniform plan of charters. City charters are frequently very elaborate instruments, much more extensive than the national or state constitutions; the original charter (1898) of the present city of New York contains 750 pages. Charters differ from constitutions in that they may be altered or amended at the pleasure of the state legislature.

Departments of City Government. — Municipal courts, presided over by elective magistrates and judges, exist in all our large cities, but they are really branches of the state judiciary and will be treated in that connection. Each city has also executive and legislative departments.

The Mayor. — At the head of the executive department of the city stands the mayor, elected by the people for a term of from two to five years. City charters granted prior to the middle of the last century so carefully limited the power of the mayor as to make him subordinate to the city councils. So poorly did this plan work that it was supplanted by a division of power between mayor and councils. Divided authority, however, means divided responsibility, and there has been a steady movement toward concentrating executive authority in the hands of the mayor, so as to make him responsible for the administration of the entire city. His veto power makes him also responsible, in a large measure, for legislative acts. A "responsible mayor" is given power to appoint and remove heads of departments, such as chief of police, park com-

missioners, etc., and hence the mayor is responsible for the actions of his appointees. The power of a responsible mayor is so great that it is supposed citizens will see that an efficient man is chosen, and experience in the United States has shown the wisdom of this plan.[1]

The melancholy experience of Minneapolis, whose mayor in 1902 dealt wholesale in permits to violate the law, shows what power for evil may be exercised by a responsible mayor and may well serve as an "horrible example."

Qualities a Mayor Should Possess. — That a mayor should be honest is axiomatic, but it is also equally true that he should possess training for the important duties which belong to his position. A good "business man" will not necessarily possess the peculiar ability required for an efficient mayor, and many an honest man has proven a miserable failure in that office.

The ideal mayor must have knowledge along a number of lines. "He must be sufficiently experienced to recognize the interests of the city when selfish and designing men are seeking to enrich themselves at public expense.

"He must especially have large knowledge about all businesses engaged in furnishing the so-called public utilities, so as to know what may be demanded when private corporations are engaged in supplying these utilities, and what is a right standard when they are supplied by the

[1] English cities, on the contrary, have achieved good government by concentrating authority in the hands of the city councils. The mayor, appointed by the council, acts as its agent. Were it possible to elect able and honest men to membership in the city councils, such a plan would doubtless succeed as well in America.

municipality. Especially must the mayor, along with a backbone of iron, have expert knowledge concerning all franchise questions."[1] He must have sufficient knowledge along the line of each department of city activity to appoint experts as department heads and to hold them to their full duty.

The salary of the mayor should be sufficient to attract men of ability. New York pays its mayor $15,000 a year; Boston follows with $10,000 a year.

German cities regard the position of mayor as a profession. The mayor is not chosen because he happens to be a genial man and belongs to the dominant political party, but because of his special training and experience. The city councils appoint mayors for long terms; in Prussia they may be appointed for life. A successful mayor is often called to serve another city at an increased salary. The following translation of an advertisement in the "Berliner Tageblatt" is taken from Dr. Ely's suggestive little book, "The Coming City."

Vacant Mayor's Position.

It is desired to fill at once the position of mayor in this city, to whom are intrusted also the duties of the registration and vital statistics office. The yearly salary is 4,800 marks, and the pension to which the mayor becomes entitled amounts to the same sum.

Candidates who have passed the second examination for the higher judicial or administrative service are respectfully requested to send in their applications with a short sketch of their life, not later than the 30th of August to the undersigned.

The Chairman of the Municipal Council, Otto.

LUCKENWALDE, July 15, 1891.

City Administrative Departments. — A city comptroller, or auditor, has charge of the city accounts and must decide upon the legality of all payments. The comptroller is

[1] Ely, "The Coming City," pp. 40–41.

usually elected by the people. Experience has shown that the department of finance should not be under the control of the mayor, but should be independent, and thus serve as a check upon other departments.

Such important departments as those of police, health, fire, street cleaning, parks, etc., are in the hands of either a single commissioner or of a commission. Heads of these departments are generally appointed by the mayor, who has also power of removal. Sometimes appointments and removals are subject to the approval of the city council.

The department of education is separate from the other departments. The members of the board of education, either appointed by the mayor or elected by the people, choose the superintendent of schools and have charge of all matters relating to the public schools.

The City Legislative Department. — The legislative body of most cities consists of a single chamber, usually called the city council, the members of which are elected from wards or other districts for a term of from one to four years. In many cities the legislative department is bicameral, the upper and less numerous body being chosen for a longer term than the larger lower chamber. The upper chamber is often called the board of aldermen. In some cities members of the upper chamber are chosen from the entire city or from large districts. This is done in the hope that abler men will be elected than if they were chosen from wards. Councilmen serve either without pay or for a small remuneration.

New York City pays her aldermen, who serve for a term of two years, a salary of $1,000 a year, which is an unusually large amount for such service.

The Duties of the City Legislative Department. — The authority of the city councils is strictly limited by the charter. Legislative acts of the council are known as ordinances and cover such local subjects as police regulations, opening of new streets, etc. The authority of city councils has been much limited by the creation of special departments under commissioners responsible to the mayor. Ordinances having passed the city council must be approved by the mayor before becoming effective, though they may be passed over the mayor's veto by a two-thirds majority.

Among the most important duties pertaining to the city council is the granting of franchises for the construction and operation of street railways, gas and electric light works, and telephone lines.

To the city council financial affairs are usually entrusted; it must provide revenue by taxation or other means and must vote all appropriations of public funds. In some cities, including New York, a board of estimate and apportionment prepares the annual budget, or estimate of appropriations, which may then be submitted to the council.

The National Municipal League has presented a plan for a model city charter.[1] According to this plan there should be:

1. A council of one chamber. Members to be elected on a general ticket for terms of six years, and serve without pay. One-third to be elected every two years.

2. The mayor to serve for a term of two years. All heads of departments, except the comptroller, to be appointed by the mayor. Subordinates to be appointed on the basis of a civil service examination.

[1] In "Municipal Program," pp. 187–224.

3. A comptroller to be elected by the city council, who would be the head of the financial department.

Village Government. — Communities smaller than cities, but which have some of the needs of an urban population, such as police protection, water works, and fire department, are organized as villages.[1] Village government is like city government in miniature and needs no extended description. Villages differ from cities in remaining a part of the town government, and in that they possess less extensive financial powers than cities. "The motive for passing from town government to city government in general has been the same everywhere — to acquire a certain readiness of action, and to make more available the credit of the community in order to provide adequately for its own growth." (Bryce.)

DEPARTMENTS OF CITY ACTIVITY

Police Department. — City government is much more complicated than rural government. Constables, who usually have time to engage in private business in addition to their official duties, are sufficient to keep order within a town. A large population, often composed of many persons of foreign birth, offers better opportunities for crime.[2] The city needs a permanent police force adequate to enforce the law. New York finds it necessary to maintain a police force of over 7,000; Chicago has a force of about 3,000 men.

[1] Known as boroughs in Connecticut and Pennsylvania.

[2] The percentage of foreign born in New York is 42, in Chicago 41, and in Philadelphia 25. See Wright, "Practical Sociology," pp. 118, 122.

City Streets. — A city needs a good system of public streets, well paved, and well cleaned. The leading business streets must be paved with material sufficiently durable to withstand a heavy traffic. The laying out of city streets usually belongs to the city council; keeping them in repair is delegated to the street department; and the cleaning of the streets is usually given to a special department.

The City and Public Education. — The city school system is always more extensive than is possible in a rural community. The financial resources of the city are such that it can secure the best material equipment and it can pay salaries sufficient to attract the most efficient teachers.

In addition to primary, elementary, and high schools, most cities support kindergartens and many maintain high schools devoted to technical education. A few American cities maintain colleges in which tuition is free to residents of the city. Large cities usually have evening schools for the benefit of those who must work during the day. In a number of our cities, the department of education offers extensive courses of lectures, free to the public, on literary, historical, and scientific subjects. Closely akin to the work of the department of education is that done by public libraries, museums, and art galleries.

Public Health. — A dense population offers special opportunities for the spread of disease. The city must have a health department, whose duties are very extensive. The health department must see that all houses and yards are kept in a sanitary condition. To the department, physicians are required to report all cases of contagious

and infectious diseases and the department, by isolation or in other ways, must provide against epidemics. The health department must enforce vaccination in time of danger from smallpox and must maintain, when necessary, a quarantine against the introduction of disease from outside of the city.

Public health depends upon the purity of the food supply, and hence the city must inspect milk and other perishable food which enters the city. The public health depends also upon the efficiency of other departments. A pure and abundant water supply, a sanitary sewerage system, tenement house inspection in order to enforce laws requiring adequate air and light shafts, public parks, public baths, and hospitals have a direct influence on the public health.

Parks and Recreation. — Every modern city possesses, or should possess, an extensive park system. Parks are not only of value in beautifying the city, an important consideration in itself, but, if near the centers of population, have an important effect in purifying the air. Within the parks are often zoölogical gardens and other means of instruction and entertainment.

New York City maintains a considerable number of public playgrounds, usually in densely populated districts, where under competent direction, the children of the poor may indulge in wholesome games, free from the contamination of the streets. New York City also has a number of recreation piers along the river front.

American cities are just beginning to see the value of public baths. New York maintains floating baths in the rivers and bay during the summer, and permanent baths,

equal to any in the world, during the entire year in many parts of the city. Many other American cities have followed the example of New York.[1]

Department of Charities and Correction. — Immense sums are expended annually by every large city for the care of the dependent and delinquent classes. In the smaller cities much of this duty devolves upon the county, but the larger cities maintain hospitals, asylums, almshouses, and prisons.

Other Lines of City Activity. — In addition to the departments above mentioned and others of a similar nature which are necessary city functions, many cities engage in industrial activity such as operation of gas works and electric light plants. The consideration of this variety of city activity is reserved for a subsequent chapter.

Foreign cities have a wider range of activity than American cities. In Europe it is quite common for cities to own model tenement houses, conduct a pawn-broking business, own cemeteries, etc. See Shaw, "Municipal Government in Continental Europe."

THE GOVERNMENT OF NEW YORK CITY

The Charter. — The Dutch government granted the city of New Amsterdam a charter in 1653. When the city was under English control twelve years later, Governor Nicolls granted a charter to "His Majesty's town of New York" in which the schout, burgomasters, and schepens of the Dutch were replaced by mayor, aldermen, and sheriff. Three other charters were granted during colonial times. The first complete charter from the state was granted in 1813. Revisions of this charter were made in 1830 and in 1873. The Consolidation Act of 1882 embodied a complete revision of the charter, and this remained in force until 1898, when the first charter

[1] See Bulletin of Bureau of Labor, September, 1904.

of the greater city of New York went into effect. The new city included the territory of the old city of New York, the County of Kings, the County of Richmond, and portions of what was the County of Queens. The charter was carefully prepared by a committee of experts, and embraced provisions suggested by the best charters of European as well as American cities. A new charter, designed to correct mistakes in the original charter of the greater city, went into effect January 1, 1902.

The Boroughs. — The city of New York is divided into five boroughs: Manhattan, comprising Manhattan Island and some small adjacent islands; The Bronx, including that part of the old city of New York in Westchester County and some adjacent islands; Brooklyn, comprising all the County of Kings; Queens, comprising all of the present county of Queens; and Richmond, comprising Richmond County (Staten Island).

The Mayor. — The mayor is elected by the voters of the entire city for a period of four years. He has very extensive powers of appointment, and responsibility for most executive and administrative departments is, therefore, upon him. In other respects his powers are similar to those usually exercised by a mayor.

Administrative Departments. — Over every administrative department there is a single officer. All heads of administrative departments, except the comptroller, or head of the department of finance, and the superintendent of schools, are appointed by the mayor. The comptroller is elected by the voters of the entire city, and the superintendent of schools is chosen by the Board of Education, the members of which are appointed by the mayor. The administrative departments are assigned duties similar to those given to executive departments in other cities, except that the water works of the boroughs are chiefly under borough officers.

Borough President. — Each borough has a borough president elected by the voters of the borough for a term of four years. The borough president has general charge of public streets, bridges, tunnels, and most of the public buildings in his borough. He also has charge of local improvements, which are voted by the local boards.

NEW YORK CITY HALL

Boards of Local Improvements. — The city is divided into twenty-five districts for local improvements. Local improvement boards have authority to open streets, construct bridges, and establish parks in cases where the adjacent property bears part of the expense, except where the charge on the city as a whole is over $500,000, in which case it must be approved by the Board of Aldermen. All plans for local improvements must, however, be approved by the borough president, and in case the improvement calls for an expenditure of over $2,000, it must be approved by the Board of Estimate and Apportionment. The local improvement boards are composed of the members of the Board of Aldermen within the district, and the borough president presides over meetings of the Board.

Board of Estimate and Apportionment. — The Board of Estimate and Apportionment is composed of the mayor, president of the Board of Aldermen, the comptroller, and the five borough presidents. In the Board of Estimate and Apportionment, the mayor, comptroller, and president of the Board of Aldermen have three votes each, the presidents of the boroughs of Manhattan and Brooklyn have two votes each, and the presidents of the other boroughs have one vote each. One of its chief duties is to prepare the annual budget, or estimate of expenses for the succeeding year. The budget then goes to the Board of Aldermen, and when passed by that body, becomes the legal amount to be raised during the year for local purposes. Franchises to corporations desiring to operate street railroads, or to supply other public services, are granted by this Board.

The Board of Aldermen. — The Board of Aldermen is the legislative branch of the city government. The Board consists of seventy-three members elected from that number of aldermanic districts for a two years' term, of the president of the Board, elected by the voters of the entire city, and of the five borough presidents. Each head of an administrative department has a seat in the Board, and must attend its meetings when requested by the Board. He has no vote, but may take part in debates; he is also required to answer questions relating to his department, provided forty-eight

hours' notice is given that a certain question will be asked. The Board has authority to pass ordinances upon subjects enumerated in the charter. It cannot authorize the expenditure of money for any celebration, procession, funeral, reception, or entertainment, except by a vote of four-fifths of its membership. A bill vetoed by the mayor may be repassed by a two-thirds vote except in case of an ordinance or resolution involving the expenditure of money, or the levying of an assessment, in which case a three-fourths vote is required. The Board of Aldermen is empowered to fix salaries of all city employees other than day laborers, teachers, examiners, and members of the supervising staff of the Board of Education. This action can, however, only be taken upon recommendation of the Board of Estimate and Apportionment. The Board cannot increase any salary, but may reduce salaries; in the latter case, however, the mayor may interpose his veto. The Board meets at the City Hall in Manhattan, and must hold a session at least once a month, except during August and September.

QUESTIONS ON THE TEXT

1. Describe the growth and character of the English borough.
2. What influence had English boroughs upon American cities?
3. What is a city? Define a city charter.
4. What has caused the growth of American cities?
5. Why does a city require government different from that of a rural district?
6. Describe the duties of a mayor.
7. What is meant by a "responsible mayor"?
8. What powers are possessed by the city legislature?
9. Describe the work of the principal city departments.
10. How do village governments differ from city governments?

QUESTIONS SUGGESTED BY THE TEXT

1. Describe the government of your own city, or the city nearest you.
2. Discuss the advantages and disadvantages of a city council of one chamber as compared with a council of two chambers.

3. What services have European cities rendered to the cause of liberty? (Consult a history of England, and, for continental cities, a mediæval history.)

4. Do you think that in fifty years the majority of the population of the United States will reside in cities? Give reasons for your opinion.

5. What has led to the establishment and growth of Boston, Chicago, New York, Pittsburgh, St. Louis, New Orleans, and San Francisco?

REFERENCES

Hart, "Actual Government," 181–196.

Bryce, "American Commonwealth," Vol. I, Chapters L–LII, Vol. II, Chapters LXXXVIII, LXXXIX.

Conkling, "City Government."

Goodnow, "City Government."

Eaton, "Government of Municipalities."

Ely, "The Coming City."

Publications of National Municipal League.

Goodnow, "Municipal Home Rule."

Almanacs published by great city newspapers, such as New York World Almanac, Tribune Almanac, and Brooklyn Eagle Almanac, contain much valuable matter on city government. The *Brooklyn Eagle* publishes the New York City Charter in its Eagle Library.

CHAPTER V

SOME MUNICIPAL PROBLEMS

Misgovernment in American Cities. — Foreign and American critics have been free to say that our cities have exhibited the one failure in American government. This is doubtless true to a large extent of our great cities, but there are scores of small cities in America as well governed as any in the world.

The comparative good government of small cities is due to several causes. (1) There is an absence of large financial operations by the city. Contracts for public improvements requiring large expenditure are few, and large private corporations are not constantly seeking franchises. (2) Knowledge is possessed on the part of the electors of the fitness of candidates for offices. (3) Greater interest is manifested in political affairs. (4) Higher intelligence is present among the voters.

Corrupt practices by officials in American cities have been wofully apparent. Public franchises worth millions have been given away, and large sums of money have been expended for public improvements which have been of little value.

When the people elect corruptible officials, who will sell franchises and award contracts for a consideration, they need not be surprised to find the city the possessor of miserable pavements, a poor water supply, and inefficient police. In every American city there are enough honest and intelligent voters to elect efficient and incorruptible officials, *if they would insist upon the nomination*

of such men and would support no others at the polls. The real danger is not so much from scoundrels who are active in politics, as from otherwise good citizens who fail in doing their political duty.

A heavier load of responsibility rests upon the business men and capitalists who stoop to bribery in order to obtain favors from city councils. Such persons are guilty of treason,[1] in fact, if not in law, and treason to the very principles of republican government.

The Spoils System. — Immense sums of money are received and expended every year by our great cities. The expenditure of many cities far exceeds the total expenses of any state in the American Union. Large sums of money must be paid for the services of men who are employed by the city in purely routine work. In the absence of any civil service laws, elections degenerate into mere scrambles for the possession of the offices. Few cities have as yet placed their minor employees under the protection of civil service laws. A good civil service law must include: (1) a competitive examination to test the ability of the applicant to fill the position; (2) provisional appointments, to be made permanent if satisfactory service is rendered; (3) promotions made on basis of merit to be determined by an examination, though seniority and past services should be taken into consideration; (4) no contributions for political purposes to be solicited from city employees.

Civil service rules mean better service to the city and security of tenure during good behavior to the employee. The hackneyed objections that the examinations do not

[1] See Steffin's "Shame of the Cities."

test the ability of the candidate to perform the duties of the office, are easily disproved by an examination of the questions given. Power of removal for cause must not be taken from superiors, but this does not vitiate the system, as appointments are made from an eligible list.

City Politics vs. State and National Politics. — It is now fairly well recognized that city politics have no relation to state and national politics. The opinions which a candidate may hold on national affairs in no way affect his qualifications for local office. The separation between municipal and national issues is now recognized in many city charters, which place days for the electing of municipal officers so that they will not coincide with state or national elections.

Municipal Home Rule. — A large part of the time of many state legislatures is taken in the consideration of bills relating to special cities and of purely local interest. The majority of the members of a state legislature seldom possess sufficient knowledge of city conditions and needs to enable them to pass intelligently on local city problems. One of the most obnoxious cases of state interference in city affairs was the notorious "ripper bill" passed by the Pennsylvania legislature in 1901. By the terms of this act the elective mayors of several Pennsylvania cities (including Pittsburgh) were removed from office, and the governor was empowered to appoint temporary "recorders" to fill the vacant offices. The city of Cleveland in 1888 was compelled by the Ohio legislature to tax itself for the construction of a soldiers' monument which it did not want. Some state legislatures have seen fit to regulate by

law the salaries of city employees who are doing strictly city work. The police commissioners of Boston are appointed by the governor of the state and are responsible to him, though the city must pay the salaries. Extraordinary conditions, such as the deplorable condition of the police department of the city of New York in 1894, are legitimate occasions for state interference, but as a rule local affairs should be left to the city councils.

The state, however, has the right to pass general city laws applicable to all cities of a certain population. In New York state, under the terms of the present constitution, special city laws must be submitted to the mayor of the city concerned, if the city be one of the first class, and to the mayor and city legislature of all other cities. A public hearing may be announced by the mayor of the city concerned, at which friends and opponents of the bill may present arguments. If approved by the mayor the bill goes to the governor for his consideration.

The city, however, has not only functions of its own to perform, it is also the agent of the state in many cases. The state must enforce certain rules in regard to education, sanitary matters, and other affairs of interest to the entire state. These functions are both state and municipal, and the state has the right and duty to see that the city authorities enforce its regulations. The state should not, however, do more than enforce the general policy of the state at large. For example: the state may desire to enforce only elementary education throughout the state; if the city desires to support high schools, that is then a purely local matter. Should the state legislature desire to carry out a certain policy throughout the state, the details of that policy should be administered by a state board.

The City and Natural Monopolies. — Certain industries have an innate tendency toward monopoly. To this class belong water works, gas and electric plants, and street railroads. Corporations desiring to furnish these utilities must make more or less use of the city streets and must obtain permission from the city for this privilege, which is called a franchise. Any permanent competition in these industries is out of the question; efforts at competition lead to a cutting of prices which is followed by consolidation. For example: if two gas companies exist in a single city, they will for a time compete, and gas will be supplied at a low price. Neither company can make money, and in a short time one will sell out to the other, or they will consolidate under a new name. The public in the end pays for the loss, either in higher prices or in lowering of quality, and it has also suffered by an unnecessary tearing up of the streets.

Whether these municipal monopolies should be public or private property is one of the most debated questions of the day.

In regard to the water works, the question has already been settled in favor of city ownership. A pure and abundant water supply is a necessity. A city which fails to secure such a supply, though it has all else that is needful, can hardly be regarded as a desirable place of residence. A revenue from the water works is the last thing to be considered; the lives of the citizens are imperiled if money-making is made a chief consideration.

At the beginning of the nineteenth century there were seventeen cities provided with a system of water works, but in only one of these did the municipality own the plant. The beginning of the twentieth century sees a majority

of American cities, including almost all of the large ones, owning and operating the water works.

In regard to other municipal natural monopolies, the question between public and private ownership is still an open one.

Arguments in Favor of Municipal Ownership. — Advocates of municipal ownership advance in defense of their position such arguments as the following:

1. Private ownership has led to immense losses through allowing rival companies to duplicate plants, which is usually followed by consolidation and high prices. Monopoly prices of private companies are so high as to amount to a public burden.

2. The city may charge a smaller price and still make a revenue, as the city would be free from all danger of competition.

3. Politics would be much purer under municipal ownership. Most of the corruption of the city officials comes through private companies seeking franchises or other privileges. To increase the power of the municipal government would stimulate interest in municipal affairs and cause a better class of officials to be elected.

4. The success of municipal undertakings of this kind is cited as a reason for the extension of the policy of municipal ownership. In England and Continental Europe experience with public ownership has been extensive and satisfactory.[1] In the United States public ownership has seldom been practiced. In no large city is the gas plant owned and operated by the city. Philadelphia has owned

[1] See Shaw, "Municipal Government in Great Britain," "Municipal Government in Continental Europe."

her gas works since 1841, but now leases the plant to a private corporation.

Richmond (Va.), Wheeling (W. Va.), Duluth (Minn.), and Hamilton (Ohio) are the principal cities which own and operate their gas works. Municipal ownership and operation of electric lighting plants is more common.

Among the cities owning works for the supply of electric light are Chicago, Detroit, Allegheny, St. Joseph, Little Rock, Jacksonville, and Tacoma. In most cases the city ownership of gas and electric lighting works has given satisfaction to the citizens both in quality and price. Success or failure seems to have depended upon the honesty of the local government. There has been practically no experience in the United States with municipal ownership of street railroads. For a number of years the railroad across the Brooklyn Bridge was jointly owned and operated by the cities of New York and Brooklyn, and the service gave excellent satisfaction. At present this railroad is owned by the city of New York, but is operated by a private corporation.

Arguments against Municipal Ownership.

1. It is often objected that municipal ownership is socialistic. This statement is not an argument; the same statement with the same amount of truth may be made in regard to public schools, public libraries, parks, and bridges.

2. City government, it is said, cannot manage industrial establishments as efficiently as private corporations, and poor and expensive service would result. Cities content to live under inefficient local government would doubtless find city ownership worse than private ownership generally is.

3. The strongest argument against municipal ownership is made by those who acknowledge the evils of private ownership, but claim that public ownership will not remedy the difficulties and that public regulation alone is needed. If natural monopolies are to be private property, they should be subject to public control. Such rules as the following are advocated:

a. Franchises should not be given away, but granted for a limited period, not exceeding twenty-five years, and the city should receive a fair price for the privileges conferred. This price should include a lump sum and a percentage of the gross receipts.

b. The possessor of a franchise should be guaranteed against any attempt at competition by having the exclusive right to furnish the service within the city, or a part of the city.

c. Quality and maximum prices should be regulated by law.

d. When the term of the franchise expires, it should revert to the city, which should reserve the right to acquire the plant.

e. Financial accounts of the corporation receiving the franchise should be matters of public record.

QUESTIONS ON THE TEXT

1. Account for the existence of corruption in municipal politics.
2. Why are our small cities, as a rule, better governed than our large cities?
3. What is meant by civil service reform? What features must a good civil service law include?
4. Why should national and city politics be separated?
5. To what extent should a city be granted "home rule"?
6. Discuss city ownership of the gas works, the electric light works, and street railroads.

QUESTIONS SUGGESTED BY THE TEXT

1. Is your city, or the city nearest you, well governed? Give reasons for your opinion.

2. Investigate the Tweed régime in New York, and the gas ring in Philadelphia.

Consult Andrews' "The United States in our Own Time," on the former, and Bryce's "American Commonwealth," on the latter.

3. Why are European cities better governed than American cities?

4. How can you assist the movement for better city government?

REFERENCES

Hart, "Actual Government," 201–214.
Wilder, "Municipal Problem."
Wilcox, "The American City."
Low, "Problems of Municipal Government."
Fairlie, "Municipal Administration."
"The Municipal Program." (Published by The Macmillan Company for the National Municipal League.)

On Municipal Monopolies:

Bemis, "Municipal Monopolies."
Ely, "Problems of To-day," 107–146.
Ely, "Monopolies and Trusts."
Maltbie, "Municipal Functions" (Vol. II, No. 4, Municipal Affairs).

On European Experience:

Shaw, "Municipal Government in Great Britain."
Shaw, "Municipal Government in Continental Europe."
Howe, "The City, the Hope of Democracy."

CHAPTER VI

STATE GOVERNMENTS

Colonial Government. — When the War of the Revolution began there were among the English colonies three distinct types of colonial government. These may be designated by the manner in which the governor was chosen, as royal, proprietary, and democratic. A governor appointed by the crown was the chief executive officer in royal colonies, of which there were eight at the time of the War of the Revolution. Proprietary colonies were the results of large grants of land which the kings of England had for various reasons given to certain individuals. With these grants was often conferred authority to organize civil governments. The proprietor in such cases had the power of appointing and dismissing the governor, and might veto any of the governor's acts as well as those of the legislature, which the governor was authorized to call. New York, New Jersey, Pennsylvania, and Delaware, the Carolinas, and Maryland were originally proprietary colonies; Pennsylvania, Delaware, and Maryland were still proprietary colonies at the time of the war. Republican colonies[1] possessed charters granted by the king, in which a large measure of self-government was conceded. In such colonies one of the chief privileges was the selection

[1] These colonies are usually called charter colonies, which is inexact, as proprietary colonies also possessed charters. Massachusetts, originally republican, had a charter which placed her in a better position than other royal colonies.

See Fiske's "Civil Government," p. 160.

of the governor. Connecticut and Rhode Island were the only republican colonies at the time of the war.

Colonial Legislatures. — In all of the colonies there were legislatures, which ordinarily exercised control over the internal affairs of the colony. This control was exercised either according to the terms of the charter or without any formal authority from England. The legislative assemblies consisted of two chambers, except in Pennsylvania where there was but one chamber. The lower chamber was elected by the people, or rather by the minority of the people upon whom the privilege of voting had been conferred. The governor's council, originally an advisory body, had come to possess legislative power and acted as an upper chamber in every state except Pennsylvania. Members of the governor's council were elected by the people, appointed by the king or proprietor, or chosen by the retiring legislature.

Origin of State Governments. — The war severed connection with England and made it necessary to make some changes in the form of government. As early as May 15, 1776, Congress by resolution suggested to the former colonies that they should organize as state governments, which most of them speedily did either by act of legislature or by a convention called for that purpose. Most of the states found it desirable to adopt new constitutions, but Connecticut and Rhode Island, which had been practically independent republics, were content to govern themselves under the terms of their colonial charters until well into the nineteenth century.[1]

[1] Connecticut adopted a new constitution in 1818, Rhode Island in 1842.

Early State Constitutions. — The new state constitutions were based upon the colonial charters. The governor was retained as chief executive, now elected by the voters or by the state legislature. The upper house of the legislature became known as the senate and was composed of members either elected by the people or by the lower house. Each state claimed to be sovereign. The Articles of Confederation (1781–1788) left the states sovereign, but by the adoption of the present Constitution of the United States they surrendered many of the essentials of sovereignty.

Present State Constitutions. — All the states, except Massachusetts, have adopted their present state constitutions since the Constitution of the United States went into effect. The new constitutions were modeled to a large extent upon the Federal Constitution, and changes in that document have generally been followed by changes in the state constitutions.

There are three main divisions in the state constitutions:

1. *A Bill of Rights*, which consists of a statement of fundamental rights and privileges of inhabitants of the state.

2. *An outline of the frame of government*, in which provision is made for executive, legislative, and judicial departments.

3. *Miscellaneous provisions* in regard to the militia, corporations, public lands, taxation, education, and methods of amending the constitution. Many provisions are inserted in state constitutions which belong properly to the ordinary domain of legislation, but which have been put in the constitution in order to make it difficult, if not impossible, to change them.

Written Constitutions. — The first written constitution in America, if not in the world, was created in an assembly of the towns of Hartford, Windsor, and Wethersfield, which was held in Hartford on January 14, 1639. This was a real constitution, as it clearly described the nature of the proposed government. The famous document was called the "Fundamental Orders of Connecticut." When Charles II granted a charter to Connecticut he merely gave recognition to the Fundamental Orders.

In the colonial charters we find the beginnings of written constitutions in America. Under them the people became accustomed to government restricted by a written instrument. Oftentimes questions arose in which the issue was whether the colonial legislature had not exceeded its authority. Such questions were settled before the courts of law, and a decision against the act of the legislature made the act null and void. The provisions of our state and national constitutions, following the suggestion of the colonial charters, give the courts authority to pass upon the constitutionality of legislative acts. In countries with unwritten constitutions no such restraint is exercised over legislative bodies.

The great advantage of written over unwritten constitutions is in the prevention of radical and hasty legislation, which is really a protection of the minority against the majority. But this does not make the courts superior to the people; no believer in popular government could desire such a thing. It is a check "in the way of the people's whim, but not their will."[1] No measure sincerely

[1] James Russell Lowell, "Democracy and Other Addresses," p. 24. See also Tiedeman's "Unwritten Constitution," p. 164.

desired by a majority of the people can long be resisted. The legislative and executive bodies may change the complexion of the court by creating additional judges, or the constitution may be amended, and thus the people's will may become effective.

Amendment of State Constitutions. — Two methods of amending state constitutions exist. One method is to have the proposed amendment introduced in the state legislature, where it is obliged to receive a three-fifths or two-thirds majority. Some states make its passage through the legislature even more difficult by requiring that it shall pass in two successive legislatures. After passing the legislature, the amendment must be submitted to the people for ratification or rejection.

The other method of amendment is by a convention. Usually state constitutions provide that a constitutional convention shall be called when two-thirds of the legislature demand it, though in some states the legislature is required at stated intervals to submit to the people the question of holding a convention. Members of the convention are chosen by the voters at a special election. The work of a constitutional convention is usually submitted to the people for ratification or rejection. Recently, constitutional conventions in some of the southern states have declared new constitutions in force without submitting them to the people, because they knew that the qualified voters under the old constitution would reject the new instrument.

The Sphere of State Governments. — State governments occupy a very important place in the American system of government. The United States government possesses the

highest of governmental functions, but the state governments possess the most, and these include activities which affect the every-day life of the citizen. "An American may, through a long life, never be reminded of the Federal Government, except when he votes at presidential and congressional elections, buys a package of tobacco bearing the governmental stamp, lodges a complaint against the post office, and opens his trunk for a custom-house officer on a pier at New York when he returns from a tour to Europe. His direct taxes are paid to officials acting under state laws. The state or a local authority constituted by state statutes, registers his birth, appoints his guardian, pays for his schooling, gives him a share in the estate of his father deceased, licenses him when he enters a trade, marries him, divorces him, entertains civil actions against him, declares him a bankrupt,[1] and hangs him for murder. The police that guards his house, the local boards that look after the poor, control highways, impose water rates, manage schools — all these derive their legal powers from the state alone." [2]

In the division of powers between state and nation, certain matters of national interest were given to the nation; all other powers reside in the states. "He who asserts the power of a state legislature to pass an act or establish an institution has not to prove it; but he who denies the power must cite some clause of the Constitution forbidding it." [3]

[1] Written prior to the passage of the United States bankruptcy acts.

[2] Bryce, "American Commonwealth," pp. 425, 426.

[3] Woodburn, "American Republic," p. 344.

The Bill of Rights. — The bills of rights in the constitutions of the original states were adopted when the fear of governmental oppression was strong. Later constitutions have included bills of rights with such changes as circumstances might dictate. The principles of the bills of rights are not new; they are the common heritage from Magna Charta, the Habeas Corpus Act, and the Bill of Rights.

Among the expressed or implied provisions of a state bill of rights the following are commonly found:

1. Freedom of the press and speech shall not be denied. The abuse of this freedom, such as incendiary speech and abusive and indecent language, is punishable.

2. Religious liberty is guaranteed. Persons are not to be molested for worshiping according to the dictates of their own consciences. However, they may not commit a crime under the plea of religion; religious freedom does not legalize polygamy or any other crime. Religious opinion shall not debar from any political offices, though some of the older states make belief in God requisite for holding some state offices. There shall be no union of state and church.

3. Private property shall not be appropriated for public use without just compensation.

4. No bill of attainder or *ex post facto* (after the act) law shall be passed. A bill of attainder is a legislative act whereby a person may be condemned without trial. An *ex post facto* law is one which makes an offense committed before the passage of the act punishable in accordance with the provisions of the act.

5. The writ of *habeas corpus* (you may have the body) shall not be denied unless in case of rebellion or invasion. This writ may be secured in behalf of the prisoner. It is

directed to the person responsible for the detention of the prisoner, and commands him to produce the prisoner at a stated place and time for examination. This important writ prevents imprisonment without trial.

6. Trial by jury is guaranteed to persons accused of crime, and may be demanded in certain civil cases.

7. Certain rights are secured to persons accused of crime. No person accused of crime may be compelled to testify against himself; excessive bail shall not be required; no cruel or unusual punishment shall be inflicted.

QUESTIONS ON THE TEXT

1. Describe three kinds of colonial government, and state under what variety each of the thirteen colonies was at the time of the Revolutionary War.

2. Give an account of the origin and power of the colonial legislatures.

3. What changes were made in government when the colonies became states?

4. Compare the advantages of written and unwritten constitutions.

5. Describe two ways in which a state constitution may be amended.

6. Show the importance of the functions assigned to state governments.

7. What are the usual contents of a state bill of rights?

8. Define bill of attainder, *ex post facto* law, and writ of *habeas corpus*.

QUESTIONS SUGGESTED BY THE TEXT

1. When was the present constitution of your state adopted? When was it last amended?

2. The Constitution of the United States empowers the Supreme Court to pass upon the constitutionality of a law; this is generally

regarded as an original provision of our National Constitution. Do you find anything similar to this in colonial experience?

3. Of what value is a bill of rights?

4. Consult a good history of England on Habeas Corpus Act, Magna Charta, and Bill of Rights. Of what importance are these English acts to us?

5. Why may it be necessary to suspend the writ of *habeas corpus* during war?

CHAPTER VII

STATE GOVERNMENTS (Continued)

The Executive Department. — The governor is the chief executive of the state. His position is one of great responsibility and dignity, notwithstanding the fact that a majority of the minor state executive officers are elected by the people and are therefore responsible to the people rather than to the governor. Though primarily an executive officer, the governor exercises judicial functions when he pardons a criminal, and legislative functions when he vetoes a bill. The duties of a governor may be classified as follows:

1. At the beginning of each season of the legislature, and at any other time when he deems it necessary, the governor sends a message to the legislature. This message describes the condition of the state and recommends any legislation which the governor thinks desirable.
2. He may call special sessions of the legislature.
3. In all but three[1] states he may veto a bill.
4. He has the power to appoint a number of minor state officials; often this must be done subject to the approval of the senate.
5. The governor is commander-in-chief of the state militia. In case the local authorities are unable to enforce law and order, they may appeal to the governor for troops. Such an appeal is generally made by the sheriff of the county in which the disorder occurs.

[1] Rhode Island, North Carolina, and Ohio.

NEW YORK STATE CAPITOL BUILDING, ALBANY, N. Y.

6. In most states the governor has power to pardon criminals and commute sentences. On account of the burden that this power places upon the governor, and to insure more careful examination into the facts, in many states the pardoning power has been placed in the hands of a board of pardons of which the governor is often a member.

The Gubernatorial Term. — Twenty-one states have a gubernatorial term of two years; in twenty states the governor is elected for a term of four years; two states elect governors for three years, and two states for one year.

Qualifications of a Governor. — State constitutions differ widely in the qualifications they prescribe for governors. Maine requires that the governor shall be a native born citizen; New Jersey and Mississippi require their governors to have been citizens of the United States for not less than twenty years; Minnesota requires her governor to have resided in the state for at least one year. The usual requirements are that the governor shall have been a resident of the state for at least five years, a citizen of the United States for an equal period, and that he shall be not less than thirty years of age.

Salaries of Governors. — Salaries of governors vary from $10,000 a year, the amount paid by New York, New Jersey, and Pennsylvania, to $1,500 a year paid by Vermont and Oregon.

Other Executive Officers. — A lieutenant-governor, whose qualifications and terms of office are the same as those of the governor, is elected in most of the states. The lieuten-

ant-governor acts as governor in the event of the governor's chair becoming vacant during his term of office; ordinarily his duties are confined to presiding in the senate.

A secretary of state keeps the official records of the executive and legislative department and has charge of election returns. An attorney-general represents the state in cases which it may have before the courts, and acts as legal adviser to the state officers in their official capacity. Other state officials whose names indicate their duties are treasurer, auditor, surveyor-general, and superintendent of public works.

State Administrative Boards. — In every state of the American Union important duties are assigned to single commissioners or a board of commissioners. Boards of inspection and supervision exercise great authority over state property, local governmental institutions, and many important lines of business which have a quasi-public nature such as the railroad and insurance business. Recently state activity of this nature has been much increased, but it has tended rather to harmonize government throughout the state than seriously to interfere with local government.

The State and Education. — The educational system of each state is determined by the state school law. The school law states what subjects must be taught, the minimum number of months which shall constitute the school year, the method of selecting teachers, and whether the district, township, or county shall be the unit for school administration. In many states the school law provides that text books shall be furnished at public expense. Fin-

ancial assistance is commonly given by the state to local schools, subject often to certain conditions. In Pennsylvania, for example, no district which pays teachers less than $35.00 a month shall receive state aid.

At the head of the state educational system is usually a superintendent, with whom is often associated a board of education; in some states there is a board of education (or regents) but no superintendent.

These officials in some states are elected by the people or by the legislature, in others they are appointed by the governor. General supervision over the state schools, except city schools with their own superintendents, is exercised by the superintendent, or board of education.

The state does not confine its attention to supervision of local schools, but directly maintains normal schools for the training of persons who desire to devote themselves to the profession of teaching. Most of the states, especially in the South and West, maintain state universities which are in every respect equal to the best in the country. Tuition is generally free to students who are residents of the state, though a small "incidental" or "registration" fee is charged. Schools for the scientific study of agriculture, on a separate foundation or connected with the state university, exist in most states.

Railroad Commissions. — Commerce within a state is entirely under the jurisdiction of the state authorities. A board of railroad commissioners exists in most states, whose duties are to protect individuals and corporations against unjust discriminations and to see that the state laws are obeyed by the railroad corporations. While railroad abuses have not disappeared, conditions have cer-

tainly improved since the establishment of these commissions.

Public Charities and Corrections. — Most states assign to a single board, or to several boards, supervision over charitable and penal institutions within the state. States usually maintain institutions for the defective classes, which include schools for the deaf and dumb, schools for the blind, institutions for the feeble-minded, and asylums for the insane. Experience has amply proven that these unfortunate classes are better cared for in state than in county institutions, unless the county be a very populous and wealthy one. The proper care of the defective classes demands material resources beyond the ability of most counties.

State penal institutions consist of state prisons and reformatories. Mature persons convicted of serious crimes are sent to the state prison, less serious offenders being confined in city and county institutions. Various industries are carried on within the walls of the prison, as work is necessary for the physical and mental welfare of prisoners as well as for other persons. Industrial occupations in the prisons not only enable the prisoners to be in a measure self-supporting and give the men needful occupation, but often teach them the only honest trade they ever knew.

Juvenile offenders are sentenced to reformatories. Classes in all the common branches are maintained within each reformatory, and each inmate is obliged to learn some trade. The "indeterminate sentence," whereby the judge names a maximum and minimum term, is usually employed by judges in sentencing juvenile offenders. When within the institution the prisoner soon learns that he can escape

the maximum term only by good conduct, application to his studies, and careful attention to his trade. Prisoners are seldom unconditionally released after serving a term in a reformatory; they are "paroled." A paroled prisoner leaves the institution but must make regular reports to the authorities for a definite time before his discharge is made permanent.

Other Administrative Boards. — Factory inspectors are appointed to see that the state laws in regard to labor conditions are enforced. Labor laws require that factories shall be sanitary and that machinery shall be so protected as to reduce to a minimum the danger of injury to employees. The maximum hours at which women and children may be employed are fixed by law in most states, as well as the age at which children may be employed.

Permission to practice certain professions is subject to approval by a state board. These professions are of such a nature that most persons are not competent to judge the ability of the practitioner, and it is therefore to the advantage of the public that a competent body of men should pass upon the merits of candidates for admission to practice these professions. In all the states there are boards which issue certificates to persons whom they deem competent to practice medicine, dentistry, and pharmacy.

Many other state boards are in existence, the most common of which are fish and game commissioners, forestry commissioners, mine inspectors, and boards of health.

State Legislative Department. — Each state has a legislative body elected by the people. This body is generally called the legislature, but in New Hampshire and Massachu-

setts the colonial designation of "general court" is still preserved. In all the states the legislature consists of two chambers. The upper chamber is everywhere known as the senate; the lower house is usually known as the assembly, less often as the house of representatives, and in a few states as the house of delegates. There are fewer members of the senate than of the lower house, and often it is made a more permanent body by providing that half of the membership shall retire at a time. Not infrequently higher qualifications are prescribed for senators than for members of the lower house.

The presiding officer of the senate is in most states the lieutenant-governor; the lower house elects its own presiding officer, generally known as the speaker.

For the purpose of electing members of the legislature, the state is divided into election districts, senatorial districts being larger than representative (or assembly) districts.

Most states give each county, regardless of population, at least one representative in the upper house, and in some of the New England states where the town is the unit of representation, small towns send almost as many representatives to the lower house as do the large towns. As a rule, representation is based on population, and districts, or the number of representatives assigned to a district, change as population changes. A written or unwritten law generally requires that a member must reside within the district which sends him to the legislature. The usual term for members of the senate is four years; members of the lower house generally serve two years.

Legislative sessions are as a rule biennial. In Massachusetts, Rhode Island, New York, New Jersey, South

Carolina, and Georgia, annual sessions are held. Members of the legislature are paid either an annual salary or a per diem sum. In New York the salary of a member of the legislature is $1,500 per annum; in Maine $150 is regarded as a sufficient salary. Rhode Island pays her legislators $1.00 a day, during sessions of the legislature.

Process of Legislation. — The introduction of a bill is the first step in legislation. A bill, which must concern itself with but one subject, may be introduced by any member of either house. The clerk reads the bill, often only by title, after which it is commonly referred to an appropriate committee.[1]

The committee considers the bill and often changes its form. Often committees have public hearings, and in some states must hold such hearings if they are demanded. The committee may refuse to report the bill at all, in which case the bill is "killed in committee."[2] A bill must pass three readings on different days, though in emergencies a large majority may suspend this rule, and all readings may be passed in one day. Having passed one house, the bill receives the signature of the presiding officer and is sent to the other house, where it must go through a similar course. Not infrequently deadlocks result on account of the two houses being unable to agree, in which case the bill may be referred to a joint committee of conference which usually recommends a compromise. After having passed both houses, the bill goes to the governor for his signature.

[1] Each house has committees on all subjects of legislation.

[2] In Massachusetts legislative committees are required to report all bills, either favorably or unfavorably.

If he does not approve, he may veto[1] the bill by returning it to the house in which it originated with a statement of the reasons for his disapproval. In most states the bill must receive a two-thirds vote in order to be "passed over the veto" of a governor.

A usual provision is that if any bill shall not be returned by the governor within ten days (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall not be a law without the approval of the governor.

After final adjournment no bill may become a law unless approved by the governor within thirty days after such adjournment.

Initiative and Referendum. — From the beginning of the present government of the United States, it has been customary to submit constitutions and constitutional amendments to the people for ratification or rejection. The failures of legislatures to act in accordance with the will of the people has led to a demand for the submission to popular vote of statutes on all important subjects. This plan is called the *referendum*. In many states debts may not be incurred without approval by the people, city charters are often submitted to the people of the city concerned, and in many states, under local option laws, the question of selling liquors is referred to the voters of each locality. In Switzerland, the home of the referendum, the legislature is obliged to submit any statute, which it has recently passed, to popular vote on request of a certain

[1] Except in Rhode Island, Ohio, and North Carolina.

number of citizens. A few American states have followed this plan. The constitution of South Dakota provides that one-twentieth of the voters may by petition require the submission to the people of any recently passed statutes. Nebraska gives one-fifteenth of the voters the power to demand a referendum, and in California and Iowa a referendum may be demanded on local questions.

Associated with the referendum is the *initiative*, a plan which provides that on the petition of a certain number of voters the legislature must submit a bill to popular vote. This system is also of Swiss origin and has been introduced into the state governments of South Dakota, Utah, and Oregon. On local questions the initiative and referendum have extensive application in the United States. For example: in Florida one-fourth of the voters of any county may require the submission to the people of the question of prohibition of the sale of intoxicating liquors; in Georgia fifty freeholders of any county may require a vote to determine whether live stock shall be allowed to run at large; fifty or more electors of any county in California may require the supervisors to submit to the people the question of establishing a county high school.

The referendum and initiative are well suited to the decision of questions which can be settled by a simple affirmative or negative vote, and upon which the people possess an intelligent opinion. For local purposes the referendum and initiative have distinct advantage and will doubtless receive a wider recognition.

Limitations upon State Legislatures. — The action of state legislatures is limited both by the Constitution of the United States and the state constitutions. The Constitu-

tion of the United States, Article I, Section 10, limits state activity as follows:

> "1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque or reprisal; coin money; emit bills of credit; make anything but gold and silver coin a legal tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.
>
> "2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports and exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of Congress.
>
> "3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

The state constitutions limit the action of the legislatures by preventing interference with certain enumerated individual rights; by preventing a state from exceeding a certain debt limit; by prohibiting grants to sectarian institutions, etc. It is quite common to have provisions in regard to taxation, railroads, banking, education, and suffrage placed in the state constitutions and thus control the

action of state legislatures in these matters. Most state constitutions provide against local and special laws.

State Privileges Guaranteed by the United States. — Each state is guaranteed by the Constitution of the United States (1) protection in case of invasion by a foreign enemy, (2) a republican form of government, (3) that the state shall not be divided except with its own consent.

Relations of the States to Each Other. — The Constitution of the United States requires that full faith and credit shall be given in each state to the public records and judicial proceedings of every other state. This does not mean that the law of one state is binding in another state, but that judicial decisions shall be accepted as facts in other states.

A person charged with any crime, who shall escape into another state, may on the demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. The governor of the state in which the criminal is apprehended is the sole judge as to whether the accused shall be returned, and too many cases are on record in which, on account of personal dislike, a governor has refused to honor a requisition for the return of a person accused of crime.

"Citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."[1]

QUESTIONS ON THE TEXT

1. Describe the duties of the governor of a state.
2. Name the other executive officers of the state, and explain the duties of each.

[1] Article IV, Sec. II, U. S. Const.

3. What are the duties of the chief state commissioners, or administrative boards?

4. What is the "indeterminate sentence"? Show its value.

5. Describe the state legislative department.

6. Show the progress of a bill from its introduction to its becoming a law.

7. Name two ways in which it is possible for a bill to become a law without the governor's signature.

8. What is the initiative? What is the referendum?

9. How do state and federal constitutions limit the powers of state legislatures?

10. What privileges are guaranteed the states by the United States?

QUESTIONS SUGGESTED BY THE TEXT

1. Should the governor have power to pardon criminals?

2. What is the gubernatorial term in your state? Is a four year term better than a two year term?

3. Find the names and duties of the administrative boards in your state.

4. To what extent are the initiative and referendum in use in your state?

5. What are letters of marque?

REFERENCES ON STATE GOVERNMENTS

Hart, "Actual Government," 113–166.
Bryce, "American Commonwealth," I, Chaps. XLXL–VI.
Woodburn, "The American Republic," Chap. VII.
Wilson, "The State," 500–524.
Oberholtzer, "The Referendum in America."

CHAPTER VIII

THE STATE JUDICIARY AND JUDICIAL TRIALS

State Courts. — In all the states there are at least three grades of courts.

1. *Local courts.* Minor cases are tried in courts presided over by a justice of the peace or by a police magistrate. Preliminary hearing is often given to more serious cases in these courts, and if there is enough evidence the defendants are bound over to a higher court. Municipal and county courts have jurisdiction over more serious cases, and hear appeals from the lower courts.

2. *Superior courts.* — These courts have jurisdiction over serious cases, and have districts which usually cover large areas. The judges are generally not confined to sessions in any one place, but travel over their districts. In addition to original jurisdiction in certain cases, appeals from lower courts come before them. In some states these courts are known as circuit courts.

3. *Supreme courts.* — Generally these courts have no original jurisdiction,[1] and therefore try cases only on appeal from the decisions of lower courts. "In five states there are *supremest* courts above the 'supreme.' Thus, in New York a court of appeals revises errors made in certain cases by the supreme court; in New Jersey there is a supreme court above the circuit, which is itself of high

[1] In New Hampshire, Massachusetts, Rhode Island, New York, and New Jersey the supreme courts have original as well as appellate jurisdiction.

appellate jurisdiction, and a court of errors and appeals above the supreme; in Louisiana the order is reversed, and there is a supreme court above a court of appeals; in Illinois a supreme court above certain district appellate courts; and in Kentucky a court of appeals above a supreme court which is called 'superior' simply. In Texas, there are two coördinate supreme courts; one, called the supreme, for the hearing of civil cases only, the other, called the court of appeals, for the hearing of criminal cases brought up from the county courts."[1]

In most matters the decrees of state courts are final, but in cases involving matters over which the Constitution of the United States gives the federal courts jurisdiction, there may be an appeal to the United States courts.

The Selection of Judges. — During the colonial period judges were appointed by the governor; their tenure was for life or during good behavior. After the Revolution judges were elected, as this plan was considered more democratic. At present in most of the states, judges are elected by the voters for a term of from ten to fifteen years; in a few states judges are appointed by the governor for life; and in a still smaller number they are elected by the legislature. Judges should be made independent of politics, and this can only be accomplished by giving them a long term of office. Salaries of judges are far below the remuneration received by the leading lawyers, but fortunately the office is held in such high esteem that it attracts the highest talent.

[1] Wilson, "The State," p. 510.

Impeachment of Judges. — State constitutions contain provisions whereby the state legislature has the power to impeach state judges who fail to live up to the requirements of their high office. If the impeachment succeeds, the judge is removed from office.

Early Form of Trial. — Among our Teutonic ancestors when a man was accused of a crime, he might take his oath that he was innocent and bring a specified number of men to swear that they believed he was telling the truth. This ceremony, known as *compurgation*, was in some cases sufficient to clear the man of the charge. But in many cases it became necessary that some form of trial be employed, and the *ordeal* began to be the accepted form. The ordeal was an appeal to God to determine guilt or innocence. Ordeals were of many kinds. The accused might be bandaged and compelled to walk barefoot over hot irons, and if uninjured he was declared innocent.[1] His hands might be thrust into boiling water, and if, when the bandages placed about them were removed, the hands were uninjured, the man was innocent. With the Norman Conquest trial by battle was introduced into England, and it speedily became the most aristocratic form of trial. The theory was simple: two parties to a dispute would engage in a formal duel, and God would not allow the innocent to be overcome. In civil cases the fight might be undertaken by a principal or his champion, but in criminal cases the principals must fight in person, unless one be a priest or a woman, or a person disabled by reason of age or bodily weakness.

[1] For forms of ordeals and compurgation, see "Translations and Reprints," Vol. IV, No. 4, published by University of Pennsylvania.

Trial by Jury. — Ordeals were condemned by the Church and became practically extinct in England in the thirteenth century, being supplanted by trial by jury. The origin of trial by jury has been much debated, but the germs may be found in Anglo-Saxon and Norman institutions.

We have two kinds of juries, both of early origin. The jury before whom cases are tried is called a petit jury and consists of twelve men, except in justices' courts where six is the regular number. With the exception of persons engaged in certain occupations,[1] all male citizens who are between the ages of twenty-one and sixty are liable to jury duty. Another kind of jury is the grand jury. This consists of from twelve to twenty-three men, who are required to "inquire and present" all offenses committed against the authority of the state within the district for which they are impaneled.

The grand jury not only considers charges made by the district attorney, but may of its own volition initiate investigations.

Criminal and Civil Cases. — A crime is an offense against the state no less than against the person wronged. Murder, assault, theft, and other crimes are destructive of the public peace. The state recognizes this fact and provides means for inquiring into crimes and prosecuting the persons alleged to be guilty. Civil cases primarily affect the individuals who are parties to the suit. Failure to per-

[1] Physicians, teachers, clergymen, members of the police force, members of the national guard, and firemen are among those usually exempt from jury service.

form contracts, disputes over property, and the like, are not necessarily of great public concern.

It is possible for the same offense to be the basis of both a criminal and civil action. A reckless operator of an automobile may be made defendant in a criminal charge for running over a pedestrian; the injured person may also collect damages as the result of a civil action.

The Beginning of a Criminal Trial. — A formal complaint, made before a justice of the peace or other judicial officer, results in a *warrant* for the arrest of the alleged wrongdoer. Unless caught in the act of committing a crime, or seen under suspicious circumstances, a warrant is a necessary preliminary to arrest. The next step is to bring the accused before a magistrate, who, if he has jurisdiction, may try the case; otherwise he may hold the prisoner to await action by the grand jury, or a higher court. Except in serious cases the magistrate, may permit the prisoner to be released on bail, which is done by having some one furnish security for his appearance when wanted.

Most states require that a person accused of a serious crime shall not be brought to trial until the grand jury makes a presentment. The grand jury is a county institution and is composed, as we have seen, of from twelve to twenty-three men. The methods of choosing grand jurors differ slightly among the various states, but are quite similar. In New York state, for example, the board of county supervisors selects a list of three hundred persons, and not more than twenty days nor less than fourteen days before the court is to open, the county clerk, in the presence of the county judge and the sheriff, is required to draw from a box, containing the names of all the persons

on the list, a sufficient number to constitute the grand jury.

The district attorney presents evidence before the grand jury, whose sessions are secret. Witnesses are heard, but the accused person cannot appear. A majority vote of the grand jury is sufficient to bring an *indictment*, which holds the accused for trial.

The grand jury indicts on a probability of guilt.

The grand jury has the duty of safeguarding the public peace, and may bring indictments without regard to a previous commitment of a magistrate.[1]

A person indicted by the grand jury or bound over to court by a justice of the peace or magistrate, is brought before the court and is arraigned, that is, a formal charge is made against him by reading the indictment. If he pleads "guilty," the court sentences him without further trial, unless the charge be murder, in which case the trial must proceed even though the prisoner acknowledges his guilt.

Trial of a Criminal Case. — In the meantime, the appropriate county officer has impaneled a jury. This is done by drawing by lot a list of thirty-six men from those liable to jury duty. From this list the county clerk draws by lot the names of the men who are to serve as a trial jury.

Either defendant or prosecutor has the right to object to one or more persons as the names are drawn, in which case the judge will excuse the challenged person if it seems reasonable. Drawing continues until the requisite twelve

[1] In addition to its judicial duties the grand jury investigates county institutions and property, and makes report to the court on their condition.

have been secured. Should the original panel be insufficient, the court may order an additional panel.

A jury having been secured, witnesses who have been *subpœnaed*, that is, ordered by the court to be present and testify, are examined for the prosecution. After their direct testimony they may be cross-examined by the attorney for the defense. Then comes the testimony for the defense, followed by cross-examination by the prosecution and the arguments of the attorneys. The judge then charges the jury, that is, instructs them in regard to the application of the law to the case, after which they retire to find a verdict. A unanimous opinion is required to convict in all criminal cases, except in Idaho where five-sixths may render a verdict in cases involving minor crimes. Throughout the trial, the burden of proof rests upon the prosecution. The jury must find the prisoner guilty "beyond a reasonable doubt." The prisoner is not required to testify against himself, and an attorney is assigned to represent him in case he cannot, or does not, secure one for himself. If a verdict of guilty is rendered, the prisoner is sentenced to pay a fine or be imprisoned, or both. In most states a person convicted of murder may be sentenced to be executed.

A verdict may be set aside by the judge if he considers it against the law and the evidence, in which event there must be a new trial. During the trial the judge decides all points of law that may arise Either attorney may file objections to the court's decisions, and the side losing the case may demand a new trial on the basis of these exceptions. In case a fair trial cannot be secured in a certain district or before a certain court, a *change of venue* may be secured which transfers the trial to another court.

Trial of a Civil Case. — The trial of a civil case differs in many respects from a criminal trial, and the procedure is not the same in all the states. In criminal cases the state may act as prosecutor, but in civil cases the injured party, or plaintiff, must begin proceedings. As a rule, the first step is for the plaintiff to have a *summons and complaint* served upon the defendant. The complaint is a statement of the alleged wrong, and the summons is an order from the court calling upon the defendant to appear and answer the complaint before a stated time, or judgment will be entered against him by default. The defendant may then serve an *answer* upon the plaintiff's attorney, which may deny the facts or admit them and claim that they constitute no legal wrong.

Additional replies and answers may be necessary in order to determine the *issues*, or questions of dispute. The case then proceeds as in a criminal case.

In civil cases juries are often dispensed with, the court deciding on matters of fact as well as of law.

A civil case is concluded by the entering of judgment against the defendant, if the plaintiff wins the case. Entering judgment, which is the delivering of the decision to the county clerk, may be followed by an execution, which is an order to the sheriff authorizing him to seize and sell the property of the defendant in order to pay the plaintiff the amount of the judgment. In many states household goods are exempt from seizure.

Criticism of the Jury System. — The jury system, though it has been long regarded as one of the chiefest privileges of a free people, has not been without severe criticism. Every one knows how difficult it is, at least in the large

cities, to secure a jury of even fair intelligence. Most persons who are best suited for jury service use every possible means to escape the burden; on the other hand, the ignorant and thriftless rather enjoy jury service. The unsatisfactory nature of ordinary juries is acknowledged by the fact that in some higher courts a *struck jury* may be secured. This is done by the county clerk, or some similar officer, selecting a list of forty-eight men from which defendant and plaintiff are each permitted to strike off twelve names, and from the remaining twenty-four a trial jury is selected.

It is further objected to the system that juries, even though fairly intelligent, cannot properly decide upon the evidence. Efforts are frequently made to introduce incompetent evidence, though the attorney knows the court will rule it out, but none the less it has influence upon the jury. Many juries have been influenced more by sympathy than facts; attorneys know that a widow, especially if she be beautiful, has a case against a corporation practically won if it goes to the jury. A popular writer sums up the objection to the jury system as follows:

"It may be safely given as the almost unanimous opinion of Bench and Bar that there is no other system of trials now in use that is subject to as much delay, inconvenience, vexation, expense, and uncertainty as the jury system. Although it has been claimed as one of the chief ornaments of the common law, the common law manifested its want of confidence in it by sending a large class of cases — the most complicated ones, and often those involving the largest amounts — to auditors; by making the admission of the least fragment of incompetent testimony ground for setting a verdict aside; and by giving to its judges power to

annul verdicts if, in their opinion, contrary to law, contrary to evidence, founded on mistake, passion, or prejudice, or even if they think the damages awarded exorbitant." [1]

Though much may be said against the jury system, more may be said in its favor. To abolish trial by jury would be to give to judges decision as to facts as well as to the law. Lawyers and judges are influenced by the technicalities of the law; the jury system greatly lessens the tendency toward deciding questions by mere technicalities.

Fortunately, corrupt judges are rare, but the opportunities of such judges, if there were no juries, would be vastly greater than at present. The educational advantages of the jury system are not to be lightly regarded. To be a member of a jury is of real educational value to any layman. If good citizens would recognize jury service as a part of their duty toward the state, most of the objections to the jury system would disappear.

"Trial by jury has deserved much of the praise bestowed upon it. It was a great advance upon trial by ordeal and trial by battle, which it superseded. It accomplished untold good in times when judges were the servile tools of royal power. It has been called the palladium of our liberty, and not seldom the independence and fearlessness of juries presented an impassable barrier to the attempts of the crown upon the liberties of the subject. Indeed, had it not been for the trial by jury we should not be the free people that we now are; and, as human nature is the same in all ages and everywhere, as history repeats itself in substance if not in form, as enormous'y rich individuals and corporations are fast becoming the successors to

[1] Dole, "Talks about Law," p. 77.

monarchs in power, it is not at all clear that this cumbersome, expensive, and uncertain method of trial can ever be safely dispensed with, and, *with proper care* in the *selection* of *jurymen*, it might perhaps be made a means of doing as much justice, and as little injustice, as is consistent with human imperfections."[1]

QUESTIONS ON THE TEXT.

1. Describe the jurisdiction of three grades of state courts.
2. How may judges be removed from office?
3. Give an account of compurgation and trial by ordeal.
4. What is a crime? What is a civil case?
5. Describe a criminal trial.
6. Discuss the advantages and disadvantages of trial by jury.
7. What is the difference between a sin and a crime? Is a crime always a sin?

[1] Dole, "Talks about Law," p. 83.

CHAPTER IX

ELECTIONS AND PARTY MACHINERY

Suffrage. — With one exception, to be noted hereafter, the qualifications which must be possessed by voters are left to the discretion of the state governments. In colonial days the right of suffrage in most colonies was much restricted. After the Revolution, religious qualifications gradually disappeared, and property qualifications were, in the main, soon removed. This was at first due to a growth of democracy, followed by a competition of parties for the "foreign vote." The theory of representative government does not require that all members of the community shall vote. Minors, criminals, and the insane are denied the suffrage in every state. In most states women, and paupers in institutions, cannot vote. The usual requirements for the exercise of the suffrage are as follows:

1. *Age requirement.* All states require that a voter shall be twenty-one years of age.

2. *Residence requirement.* Usually a residence within the state for six months or a year is required. A shorter term of residence is commonly required in the county and in the election district. United States citizenship is required in most states, though in several an alien who has declared his intention to become a citizen may vote. No man may vote in two places, unlike England where a man may vote wherever he has the qualifications.

3. *Economic qualifications.* In the states of Pennsylvania, Tennessee, Virginia, Georgia, North Carolina, Mississippi, and South Carolina the payment of a tax is nominally a qualification for voting.

Any one who has seen the large number of tramps and loafers who vote at every important election in our large cities would acknowledge that there are good arguments in favor of a small property qualification.

4. *Moral qualifications.* Persons convicted of serious crimes, including offenses against the purity of the ballot, are by law disfranchised and are disqualified for holding office. Unfortunately these laws are not often rigidly enforced. Persons guilty of habitual polygamy are excluded from voting in the territories by a United States statute, and local laws to the same effect exist in Utah and Idaho.

5. *An educational qualification*, usually ability to read the constitution and write one's own name, exists in the states of Maine, Connecticut, Massachusetts, Delaware, Wyoming, and California.

Within the last few years the states of Virginia, North Carolina, South Carolina, Alabama, Mississippi, and Louisiana have amended their constitutions so as to require an educational qualification or the payment of a tax as a condition for registration, and registration is in each of these states a prerequisite to voting. The educational requirements of these constitutions have been vigorously attacked on the ground that they were designed to disfranchise the negroes. It may be said, however, that in no southern state is a negro legally prevented from voting because he is a negro. The Constitution of the United States provides that suffrage shall not be denied "on account of race, color, or previous condition of servitude,"[1] and

[1] Fifteenth Amendment. The Supreme Court has decided that this does not apply to Mongolians. Chinese are legally disfranchised in California, Nevada, and Oregon.

the southern states have not attempted to disqualify negroes as such. Moreover, in no southern state is a negro disqualified, unless for crime or other good reason, if he can show ability to use the English language intelligently and possesses three hundred dollars' worth of property. The real objection to these constitutional provisions is confined to two clauses which are found in several state constitutions. One of them is the "grandfather clause," found in the constitutions of Louisiana and North Carolina, which permits all persons who could vote in 1867, and their descendants, to vote if they register prior to a given date. This would exclude most negroes and admit most of the whites. The time limit attached to this act has already expired in Louisiana, and will expire in North Carolina in 1908, but those who have once registered continue to be voters. The other clause, known as the "understanding clause," found in the constitutions of Virginia,[1] South Carolina, and Mississippi, permits the registrars to exclude from the suffrage any one who does not understand the constitution when he reads it or when it is read to him. An official might interpret such a clause so as to give him authority to disfranchise almost any applicant.

The argument in favor of just educational qualifications, that is, ability to read and write, is incapable of answer. John Stuart Mill stated it in a concise form when he said: "No one but those in whom *a priori* theory has silenced common sense, will maintain that power over others, over the whole community, should be imparted to those who have not acquired the commonest and most essential requisites

[1] In Virginia this clause expired by limitation in 1904.

for taking care of themselves — for pursuing intelligently their own interests, and those of the persons most nearly allied to them."

Woman Suffrage. — Women may vote at all elections in the states of Colorado, Wyoming, Idaho, and Utah. In Kansas women may vote in municipal elections, and in a majority of the states they may vote on school questions.

The arguments usually advanced in favor of woman suffrage are as follows: women possess in no less degree than men the moral and educational qualifications necessary for intelligent voting; women are taxpayers and should have a voice in the election of those officials who are to administer the public revenues; the presence of women at the polls would exercise an elevating influence on politics.

Against woman suffrage it is urged that suffrage is not a right that may be demanded, but a privilege extended by the state to those whom it deems especially qualified; that women are now represented; that domestic and social duties sufficiently tax the time and strength of women; that active participation in politics would detract from home duties; that the majority of women do not wish the suffrage and would not vote if they had it.

Registration. — Registration of qualified voters is required as a prerequisite to voting in a majority of the states of the Union and in almost all of the cities. Registration is usually required before the regular election officers on appointed days from a month to two weeks before the election day. This gives an opportunity to exclude in advance persons who are not qualified, and to carefully investigate all doubtful cases.

Two systems of registration are in vogue: one requires registration for every election; the other permits the name of a person once registered to remain on the books until removed for cause.

The superiority of the former over the latter plan is apparent.

Methods of Voting. — The Australian ballot, so called from the place of its origin, is now in general use throughout the United States. Names of all candidates are printed on an official ballot, issued by the state and never allowed to depart from its possession, except when being marked by the voter. The voter after entering the polling place, receives a ballot from the election officers, retires into a booth, and there marks a cross in front of the name of each candidate for whom he desires to vote, or votes a "straight" ticket by putting a cross in a circle under the party emblem. In most states names of candidates are arranged by parties, thus making it easy to vote a straight ticket; but in Massachusetts and California candidates are arranged alphabetically without regard to party affiliation. Under the Australian ballot system no one can tell for whom a man votes, and thus bribery is reduced to a minimum by uncertainty in regard to delivering the vote. Ballots marked for identification cannot legally be counted.

Voting machines have been tried with success in many parts of the country. Their operation is very simple: the voter enters a booth containing a machine and pulls a knob opposite the name of each candidate for whom he desires to vote, or may vote a straight ticket. The machine automatically records the total vote cast and the number of votes each candidate has received, thus eliminating any

question of fraud in counting the ballots. The expense of the machines has been the chief objection to their general use.

The Counting of Ballots. — As soon as the polls are closed, the counting (canvass) of the votes begins. Each party is permitted to have one or more watchers to see that the officials do their work fairly. Returns from each election district after being counted are sent to the city, county, or district canvassing board and afterward to the state board. After the election returns have been officially canvassed, certificates of election are given to successful candidates.

Minority and Proportional Representation. — With the exception of a few states which require a majority of all votes cast for the election of a candidate for governor, in default of which the election of governor goes to the legislature, elective offices in the United States are filled by persons who have received the largest number of votes even though they have not received more than half the votes cast. A person receiving the highest number of votes, when the number is less than a majority, is elected by a plurality.

When there are several offices to be filled, as city councilmen or members of a legislature, it may happen that all the offices are given to one party, while the other party, casting perhaps forty per cent. of the total vote, elects no candidate.

There are two plans in vogue whereby minority parties are given representation. One of these is illustrated by the election of county commissioners in Pennsylvania. There are three county commissioners, but no one may

vote for more than two candidates, thus a minority party is sure of electing one candidate. Another plan is in vogue in Illinois for choosing members of the legislature. In that state each district is represented in the legislature by three members. Every voter has three votes and may cast all of them for one candidate, with the result that the minority party by concentrating on one candidate, is generally sure of electing one representative.

Proportional representation is an effort to give representation in proportion to the votes cast. Advocates of proportional representation point to certain evils of the present system.

"Suppose a legislature to be composed of forty members elected from forty districts, and that the popular vote of the political parties stands respectively 120,000 and 100,000. If the districts are so arranged as to have 5,500 voters each, and the parties happen to be divided in the districts in the same proportion as at large, we should have in each district a vote respectively of 3,000 and 2,500. All of the forty candidates of the majority would be elected, and the minority wholly excluded. An extreme result like this seems improbable, but it sometimes occurs." [1]

The details of plans for proportional representation are too extensive to be given in this connection. In general, the plan is to find the unit of representation by dividing the number of offices of a certain grade to be filled by the number of votes cast. Each party elects one candidate for each unit of representation cast; if all offices are not then filled, the unfilled office is given to the party having the largest remainder after division by the unit of representation.

[1] Commons, "Proportional Representation," pp. 48–49.

Another merit of proportional representation would be to destroy the temptation to arrange districts to the advantage of one party.

Advocates of proportional representation err, however, when they state that minorities are unrepresented. An officer represents the people, not a party.

Election Districts. — For many offices there is no difficulty in regard to election districts. The entire state must be regarded as a district for important state officials; in like manner counties and cities serve as districts for many offices.

In electing members of legislative bodies, it has become the custom to divide states and cities into districts of nearly equal population and elect one representative from each district. Changes in population require many changes in districting, and the party in power has opportunities to arrange the redistricting to its own advantage. Frequently districts are arranged with little regard to contiguity, so as to give the party in power a number of districts by small though safe majorities, and to group the opposition in a few districts with large majorities. This is called *gerrymandering*,[1] and can be characterized by no milder term than a crime against democracy.

[1] The term "gerrymander" originated in Massachusetts in 1812. Elbridge Gerry was the governor, and the Democratic party had succeeded in passing a law, Feb. 11, 1812, which so arranged senatorial districts as to give the Democrats the best possible chance of winning. Natural and time-honored dividing lines were disregarded. Gilbert Stuart, seeing, in the office of the *Columbian Centinel*, an outline of the Essex outer district, added with a pencil a beak to Salisbury and claws to Salem and Marblehead, and exclaimed, "There, that will do for a salamander." "Salamander," exclaimed the editor, "I call it Gerrymander." See article by Professor Ware in *American Law Review*, January, 1872.

The Caucus and Primary. — Nominations for elective offices are no less important than elections. In the New England towns nominations are usually made in a very simple manner. Often candidates are put in nomination at the town meeting without any previous arrangement. When it is known that there will be a contest, candidates either announce themselves or are nominated in parlor caucuses, or private gatherings of their supporters.

The usual method for nominating candidates for minor local offices or for election of delegates to a local party convention is by a caucus or primary.[1]

In some places a caucus, or primary, is a gathering of party voters, like a town meeting, and there is more or less opportunity for discussing the merits of candidates. More often they are conducted after the manner of regular elections, and party members vote for candidates who have announced themselves, or have been announced by "parlor caucuses," or presented by a party committee. Difficulty has sometimes arisen by members of other parties voting at the primary, and to prevent this, rules of eligibility are necessary. The primary law of New York state, which,

[1] The terms "caucus" and "primary" are used differently in various parts of the country. In New England a gathering of party voters for the purpose of making nominations, is commonly called a caucus. In some of the middle states and most of the West, party meetings or elections are called primaries. In some states they are known as primary elections. Some persons make a distinction, applying the term "caucus" to a mass meeting of voters called for the purpose of making elections, and "primary" to a party election conducted by ballot after the manner of a regular election. See Dallinger, "Nominations for Elective Offices," p. 53, note.

as amended in 1901, is one of the best laws of the kind, gives to every registered voter an opportunity to enroll with any political party and the right to vote at the primaries of his party for the ensuing year. At each regular election, every voter is provided with an envelope and a ballot by the election inspectors. On this ballot he marks with a cross the party with which he wishes to affiliate, and seals the ballot within the envelope. One week after election the envelopes are opened, and the voter is enrolled as a member of the party of his choice. Less liberal rules than these are in vogue in most states and cities.

In many places persons may not qualify to vote at the primaries unless they will promise in advance to support the nominee, and as few independent voters care to make such a promise many voters are debarred from taking part in making nominations. "General intention" to support the party or having supported the party at the last election are requirements in many places. At first the primary was independent of any statute law and its affairs were regulated by party usage, but now primaries are generally required to be conducted in accordance with a state law.

Nominating Conventions. — Nominations for city,[1] county, and state affairs are as a rule made by nominating conventions. Delegates to the city and county conventions are chosen generally at primaries; delegates to state conventions are as a rule chosen at city and county conventions;

[1] In some cities representatives to the city council are nominated by a ward caucus; also in some cities, where the ward is an election district, this is the method of nominating candidates for the state assembly.

very often delegates are elected with the understanding that they will support certain candidates, or are so "instructed" by conventions. The state convention alone will be described, as county and city conventions, though simpler, are of the same general nature.

The call for the convention, issued by the state committee of the political party concerned, names the time and place of the convention and states the number of delegates assigned to each district. The convention is called to order by the chairman of the state committee and, after prayer by some prominent clergyman, solemnly proceeds to select a list of officers prepared in advance by the committee. After the appointment of a number of necessary committees a permanent chairman is elected, who immediately delivers a carefully prepared speech on the issues of the campaign. Then comes the report of the committee on credentials, which includes its decision on contested seats, and as soon as this is approved by the convention, a platform, or statement of the attitudes of the party on pending issues, is offered for the consideration of the convention by the committee on resolutions. After adopting the platform, the convention is ready to proceed to the nomination of candidates for offices. Nominations begin with the highest office to be filled. Carefully prepared nominating speeches are made by men selected for that purpose, and after a ballot has been taken the votes are counted by a committee appointed by the chair. A majority vote is required for nomination.

State conventions usually follow the plans arranged in advance by the state committee, and this is almost necessary, as the conventions are large and unwieldy. The great power given to the state committee has, however,

not infrequently been used in opposition to the wishes of a majority of the people.[1]

Nomination by Petition. — Almost all the states require that a party must have cast a certain percentage of votes, or a certain number of votes, in order to receive a place on the official ballot. Other candidates may be put in nomination and their names placed upon the official ballot by filing with the proper officer a petition signed by a specified number of qualified voters. The number required for state officers varies from 6,000 in New York to 50 in Mississippi, and the percentage from one-half of one per cent. in Pennsylvania to five per cent. in California. For Congressional and local nominations a smaller number is generally required; the states requiring a percentage usually retain the same figure.

The Party Machine. — In order to do effective work there must be some permanent party organization. This is found in the party committee. Each political party has city, county, and state committees. These committees, either alone or associated with other politicians, are known by their friends as "the organization" and by their enemies as "the machine." To the organization belongs the duty of arranging meetings, sending out campaign literature, soliciting funds, calling conventions, and other necessary work of like character.

[1] The "snap" New York State Democratic convention of Feb. 22, 1892, is a good example. This convention sent a solid Hill delegation to the national convention, though beyond doubt the majority of Democratic voters in the state favored the candidacy of Mr. Cleveland.

372248

"The organization becomes dangerous when it passes beyond initiative and suggestion and routine work, and assumes the sole right to select persons for party nomination; or when, by preventing a fair expression of the will of the party voters, it forces unfit candidates upon the ticket; or when, going to the furthest extreme, it arranges with the worst elements in the other party for a division of the public employments and public contracts for private benefit."[1]

The Boss. — Within every political organization there is sure to be a leader. Such leadership, if directed toward the public welfare, becomes a powerful force for good. At his worst the boss is determined to hold the offices for his friends at all hazards. In order to do this he will use every opportunity to strengthen his political following; many men will be attached to him by his personality, and more by the pecuniary advantages he can give them. A successful ward boss will bail his constituents out of jail when they are in trouble, will secure positions for them in the public service or from contractors who wish his favor, will furnish relief for the unfortunate, and in a thousand ways will build up a large following. Sometimes the boss is content with the possession of political power, and expends his own money; but often, especially in the cities, the boss accumulates a fortune for himself or his friends, and the public pays the bill.

The unscrupulous boss can secure large sums of money from corporations on promise of favors or by threats of injury, and may even permit vice to flourish in return for

[1] Hart, "Actual Government," pp. 98–99.

a cash payment. At his worst the boss makes politics a commercial enterprise for private gain instead of a means of serving the public.

A machine organized for public plunder is always supported by a compact, well-organized minority, which has great advantages over an unorganized majority.

Fortunately those in favor of good government are finding out the necessity of organized effort, and the result of an awakened civic spirit is manifest in many places.

QUESTIONS ON THE TEXT

1. What are the usual qualifications that a voter must possess?
2. Discuss the advantages and disadvantages of a property qualification.
3. In what respects do you consider the educational qualifications of the southern states open to criticism?
4. In what state may women vote at all elections? Give arguments against and in favor of woman suffrage.
5. Describe the Australian (or blanket) ballot.
6. What is minority representation? What is proportional representation?
7. Describe the usual methods of nominating local and state officers.
8. What is meant by the expressions "party machine" and "boss"?

QUESTIONS SUGGESTED BY THE TEXT

1. State the qualifications that voters must possess in your state. Are these qualifications wise and sufficient in your judgment?
2. Are there any reasons why women should be permitted to vote at elections for the purpose of choosing school directors that do not equally apply to elections for governor?
3. Consult a dictionary in regard to the meaning of "alien" "denizen," and "citizen."

4. How are candidates for office nominated in your city, village, or town?

5. Has your state been "gerrymandered" recently? Show how it might be so treated with advantage to the party now in power.

6. Is the "boss" a necessary evil?

REFERENCES

Bryce, "American Commonwealth," Vol. I, Chaps. XXXIX, XCVI.

Hart, "Actual Government," pp. 66–116.

Woodburn, "Political Parties and Party Problems," Chaps. XVI, XIX, XX.

Dallinger, "Nominations for Elective Office."

Commons, "Proportional Representation."

Stanton, "Woman Suffrage" (3 vols.).

CHAPTER X

STEPS TOWARD A NATIONAL GOVERNMENT

Colonial Conditions. — Until the meeting of the First Continental Congress in 1774, the thirteen English Colonies in America had never united for any purpose. Each colony had its own executive, legislature, and courts, and each had its own relations to England. The country was sparsely settled, roads were poor, and there was little to draw the colonies together. It is very doubtful whether the English government would have looked with favor upon colonial union.

There were, however, some bonds of sympathy which should not be overlooked: the colonists were, in the main, of the same race and spoke a common language; the same political ideas were at the basis of their governments; common dangers threatened them.

New England Confederation. — The four colonies of Massachusetts Bay, New Hampshire, Plymouth, and Connecticut in 1643 formed, under the name of the United Colonies of New England, a defensive and offensive alliance which lasted for forty years. It was not a government, but an alliance for the sake of offering more effective resistance to the Indians, the French, and the Dutch. Its historical significance was, that it made the colonists familiar with the idea of common interests and actions.

The Albany Conference. — In 1754 danger of war with France led to a meeting in Albany of representatives from New Hampshire, Rhode Island, Connecticut, New York,

Pennsylvania, and Maryland. Benjamin Franklin, who was the leading spirit in the movement, presented a plan for union which included an executive to be appointed by the king, and a council of forty-eight members to be elected by the legislatures of the colonies. The plan was approved by neither the Board of Trade in England nor the colonial legislatures. In the words of Franklin, "the crown disapproved it as having too much weight in the democratic part of the Constitution, and every Assembly as having allowed too much to prerogative."

The Stamp Act Congress. — Opposition to the obnoxious Stamp Act had led Massachusetts to suggest a congress of all the colonies. Delegates from nine colonies[1] assembled in New York in October, 1765, and drew up a protest, which they called the "Declaration of Rights," in which they denied the authority of Parliament to tax them, as it was their right as Englishmen to be taxed only by their representatives.

The Stamp Act was soon after repealed, but new grievances followed.

The First Continental Congress (1774). — The repeal of the Stamp Act was followed by a series of taxes on imported goods, and, because of the resistance of the colonies to these taxes, by coercive measures. Feeling in the colonies was growing bitter, and a call for a congress to protest against the acts of Parliament met with a ready response. All the colonies, except Georgia, were repre-

[1] New Hampshire, Virginia, North Carolina, and Georgia were not represented, though they sympathized with the action of the other colonies.

sented in the First Continental Congress which met in Philadelphia. The Congress issued a new declaration of rights addressed to the people of England and America and sent a petition to the king.

But they did not content themselves with protests; they formed an American Association for the purpose of enforcing non-importation, and this also served to unite all who were opposed to British aggression.

The First Continental Congress was not a government, — it possessed no authority. It was, however, the most important assembly that had yet convened on American soil, and it served to strengthen the idea of united action. Before separating, the delegates called another congress to meet the 10th day of May, 1775, in Philadelphia.

Second Continental Congress (1775-1781). — All of the thirteen colonies were represented in the Second Continental Congress. This remarkable assembly, without any definite authority, exercised the functions of a government for six years. During this time by its authority an army was organized, a debt contracted, independence declared, revenue raised, treaties negotiated, war waged, and other governmental duties performed. The Congress was organized as a single house in which each colony or state had an equal voice. It had no executive, but in itself united executive and legislative functions. This Congress was the first body in America to pass legislative acts for all the colonies. Strictly speaking, it was hardly a government; its acts were not legally binding upon the colonies or upon individuals. The Second Continental Congress was a revolutionary body, made necessary by stress of war, which assumed and exercised authority.

The Confederation. — As early as 1777, Congress passed the plan of union embraced in the Articles of Confederation. It was provided that the Articles should go into effect as soon as they were ratified by all the states. Some of the smaller states refused to ratify until the larger states would surrender their western lands to the national government. Maryland was particularly obstinate. The delay in ratification was really an immense service to the Union, as the ceding of the western lands was the foundation of the national domain. Had Virginia alone retained her claims to western territory, the history of the United States might have been different.

The Articles were at length adopted by all the states in 1781. The purpose of this "league of friendship" was "common defense, the security of their liberties, and their mutual and general welfare." It was declared that each state retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right which was not by the Confederation expressly delegated to the United States in Congress assembled.

Nature of Government Under the Articles of Confederation. — The Articles of Confederation really formed a league and not a State. The people at that time feared the creation of a tyrant at home, and it was only through bitter experience that they were to learn that a weak government is an object of contempt, and that a strong central authority is not incompatible with liberty.

A Congress, consisting of one house, was the organ of government. Each state might be represented in Congress by not less than two or more than seven delegates, to be chosen annually in whatever manner the state legislature might prescribe.

The majority of the delegates were to decide the vote of the state on all questions, and each state had one vote. No important measure could pass without the assent of nine states. There was no national judiciary and no national executive; a committee consisting of one member from each state might exercise certain powers during a recess of Congress.

The Powers of Congress. — Congress theoretically had authority to declare war, make treaties, appropriate money, regulate coinage, build and equip a navy, and regulate other matters of common interest, but its real authority was very limited.

Weakness of the Government. — The most conspicuous feature of the government was its weakness. The principal defects were as follows:

1. *Congress had no authority to enforce its decrees.* A single state might disregard with impunity an act of Congress, and there was no way to compel obedience. There was neither judiciary nor executive.

2. *All important measures required the votes of nine states.* This meant no legislation on most matters.

3. *No ability to regulate commerce.* Congress had no power to tax imports. England put heavy taxes on American goods and closed her ports in the West Indies to American ships, but Congress could not retaliate. Congress was even powerless to regulate inter-state commerce. New York taxed farm products from New Jersey and Connecticut, but Congress could do nothing.

4. *Impossibility of amendment.* The Articles could be amended only by unanimous vote, and every effort at

amendment failed through the selfish action of one or more states.

5. *Treaty obligations could not be enforced.* Foreign states looked with contempt upon so weak a government and would not enter into relations with it. England kept troops on the western border in defiance of the treaty of 1783.

6. *There were no means of raising adequate revenue.* Most of the revenue was raised by requisitions upon the states, but the states paid only part of the sums due or neglected to pay anything. No more money could be borrowed, and Congress was obliged to issue paper money; but the people did not believe that it would ever be redeemed in gold and silver, and it soon became practically worthless.

During the first few years of its existence, the Confederation did not disclose its fundamental weakness; the early issues of paper money even gave rise to a fictitious prosperity. As time went on, paper money ceased to have value, the states more and more disregarded requisitions for money, and the interest on the public debt could not be paid. Congress was unable to pay even the ordinary expenses of government, and all efforts to amend the Constitution, so as to give Congress authority to tax imports, were unavailing. The personnel of Congress also declined; men thought service under the state governments to be more honorable.

Even the coming of peace added to the perplexities of Congress. With no war to unite them in a common cause, the states quarreled with one another.

By the close of the year 1786, it had been abundantly demonstrated that the Confederation was a "rope of sand," and thoughtful men knew that the only alternative to anarchy lay in a stronger central government.

The Annapolis Conference. — The states of Virginia and Maryland appointed delegates who met at Alexandria in 1786 in order to make some agreement in regard to navigation of the Potomac River and Chesapeake Bay. It was seen, however, that other states were interested in these and similar questions, and all the states were invited to send delegates to a trade convention to be held in Annapolis in September of the same year. Although nine states had elected delegates, only five states were represented at the meeting. The delegates saw that they could do nothing in regard to trade regulations, and they therefore, acting on the suggestion of Alexander Hamilton, issued a call for a national convention to be held in Philadelphia for the purpose of revising the Articles of Confederation.

QUESTIONS ON THE TEXT

1. What tendencies toward union existed in colonial days?
2. What was the New England Confederacy?
3. Give an account of the Second Continental Congress and compare it with the First Continental Congress.
4. Explain the delay in the ratification of the Articles of Confederation.
5. Show wherein the Articles of Confederation were defective.

QUESTIONS SUGGESTED BY THE TEXT

1. Comment upon the bearing of the following quotation on American conditions in 1787:

"A population speaking a common language and having common ideas as to the fundamental principles of rights and wrongs, and resident upon a territory separated by high mountain ranges or broad bodies of water or by climatic differences from other territory, presents us with the natural basis of a true and permanent political establishment." — J. W. Burgess.

2. The Germans call a confederation a *Staatenbund*, or band of states; and a federal nation a *Bundesstaat*, or banded state. Show the appropriateness of this distinction.

3. Why has the period from 1783–1789 been called the "Critical Period of American History"?

4. Why was not a stronger union formed in 1781?

5. What differences might have resulted in American history had Virginia not surrendered her western lands to the United States?

REFERENCES

Wilson, "The State," pp. 469–473.
Walker, "Making of the Nation," Chap. I.
Fiske, "Critical Period of American History," Chaps. III, IV, V.

CHAPTER XI

MAKING THE CONSTITUTION

The Meeting of the Federal Convention. — Fifty-five delegates representing all the states took part in the sessions of the Convention. Among them were the most able men whom the states could furnish. Washington, the most influential man in America, was a representative from Virginia and was made president of the Convention. James Madison, of Virginia, Benjamin Franklin, Robert Morris, and James Wilson, of Pennsylvania, the Pinckneys and John Rutledge, of South Carolina, Elbridge Gerry, of Massachusetts, John Dickinson, of Delaware, Alexander Hamilton, of New York, and William Paterson, of New Jersey, were among the most prominent members.

With few exceptions the members of the Convention were able and trusted men. There were some notable absentees: Jefferson was serving his country as Minister to France, and John Adams was Minister to England; Samuel Adams, Patrick Henry, John Hancock, and Richard Henry Lee had not approved of the Convention.

The delegates differed widely in regard to what changes in the frame of government were necessary. Some wished to amend the Articles of Confederation so as to give the United States government more power; others desired to draw up an entirely new constitution. Fortunately the latter were in a majority, even though they had received no such instructions from the states.

All proceedings were in secret, and each state had one vote.

The Large vs. the Small States; The Connecticut Compromise. — The Convention divided into two factions; one representing the large states, the other the small states. Edmund Randolph, of Virginia, presented a plan of government which was approved by the large states. This plan was known as the Virginia plan, and was chiefly the work of Madison. The Virginia plan provided for a Congress of two houses, which should have power to pass laws on all matters of national importance and should be able to enforce obedience. States were to be represented in each house in proportion to their population, and thus the larger states would control legislation. According to this plan Congress would have the power of appointing the heads of the executive and judicial departments, and so the large states would control the entire government. The Virginia plan was very distasteful to the small states. They favored as an alternative, a plan introduced by Paterson, of New Jersey. The New Jersey plan merely revised the Articles of Confederation, retaining a single house with an equal state vote. The question at issue was happily settled by the Connecticut compromise, so called because presented by the Connecticut delegates. According to this famous compromise each state was to be represented in proportion to population in the lower house of Congress, but in the Senate each state was to have two representatives, each of whom might cast one vote.[1]

The Three-Fifths Compromise. — A most vexing difference arose between the slave and free states over the question as to whether slaves should be counted in appor-

[1] An important modification of the plan in the Congress of the Confederation, where each state had one vote.

tioning representatives in the lower house and in determining the amount of direct taxes each state might be called upon to pay. The southern states wished slaves to be counted for representation but not for taxation purposes; the northern states held exactly the opposite position. The matter was at last settled by a compromise, suggested by Madison, whereby five negro slaves were to be counted as three whites for both representation and taxation. This compromise is known as the three-fifths compromise.

The Third Great Compromise. — The last great compromise also had to deal with the question of slavery. Georgia and South Carolina were opposed to any interference with the slave trade; the northern delegates as well as some from the South wished the importation of slaves to be prohibited. The northern states, where commerce was important, desired to give Congress control over commerce; the people of the southern states, where agriculture was the only industry, thought Congress should not be permitted to pass trade laws by less than a two-thirds majority. Here was material for another compromise. It was agreed that Congress might pass laws by a mere majority, but that no export tax should ever be levied, and that the slave trade might not be prohibited until the year 1808.

The Convention's Work Finished. — After the three great compromises were settled, the work of the Convention proceeded more smoothly. The Convention decided, after considerable debate, in which many plans were suggested, upon a single executive to be chosen for a term of four years. The method of electing a president, the judiciary, and the division of powers between the states and

the nation, were settled without serious difficulty, and after having been in session a little over four months the Convention adjourned. The Convention had previously declared that the Constitution should go into effect as soon as accepted by nine states. The Constitution was now in the hands of the people for acceptance or rejection.

Friends and Opponents of the Constitution. — As soon as the Constitution was before the people, a vigorous campaign over its adoption commenced. Opponents of the Constitution, known as Anti-Federalists, found fault because there was no bill of rights, objected to the vast powers conferred upon the nation, said that the Confederation was preferable, and feared that the President would become a tyrant.

The friends of the Constitution, known as Federalists, urged the necessity of the new form of government and showed the weakness of the old instrument. Many pamphlets and newspaper articles appeared during the campaign, by far the ablest of which was a series of documents known as "The Federalist" of which Hamilton, Madison, and Jay were the authors. "The Federalist" was written for the purpose of showing the nature of the government which the Constitution would give and was a campaign document, yet it "has not only become a classic in our national political literature, but is the repository of the best, and, apart from judicial decisions, the most authoritative expositions of the extensive text of the Constitution."

The Constitution Ratified. — The Constitution was ratified by state conventions whose members were chosen by the people of the different states. Delaware had

the honor of being the first to ratify, which it did unanimously on Dec. 6, 1787. The great state of Pennsylvania was the first in which there was a serious contest, but it ratified by a two-thirds majority on Dec. 17. Soon after New Jersey and Georgia ratified unanimously. Connecticut ratified without much difficulty; but in the Massachusetts convention ratification was seriously opposed, and the convention only consented to approve the instrument on condition that a bill of rights be demanded. Maryland, South Carolina, and New Hampshire approved in the order named. There were now the necessary nine states, but the great states of Virginia and New York were not yet "under the new roof," and without them the Union could hardly be successful. Virginia ratified by a close vote, after an agreement to ask for a bill of rights, and New York followed in a few weeks by a slender majority of three. The ratification of New York was chiefly due to the splendid talents of Hamilton, who persuaded a number of former opponents to favor the Constitution. North Carolina and Rhode Island did not ratify until after the Constitution went into effect.

The Sources of the Constitution. — The delegates who assembled in the Federal Convention came from communities in which there had been years of experience with charters and constitutions.

In forming the National Constitution, colonial and state experience had a powerful influence over every delegate. Back of this experience was the common heritage in the English Constitution.

Even a very superficial comparison of the English and the American constitutions will show many close resemblances.

The following are among the features not attributable to the British Constitution, though colonial experience more or less closely accounts for all of them:

1. The Federal idea. The United States Government is a federation of states, in each of which local self-government remains intact.

2. The power of the Supreme Court to declare a legislative act unconstitutional.

3. The Constitution is a written instrument.[1]

4. The careful separation of executive and legislative departments.

5. The method of electing a President.

QUESTIONS ON THE TEXT

1. Describe three compromise measures adopted by the Federal Convention.

2. What was "The Federalist"?

3. Describe the campaign over the adoption of the Constitution.

4. What were the sources of the Constitution?

5. Show some of the differences between the English Constitution and the American Constitution.

QUESTIONS SUGGESTED BY THE TEXT

1. Did the convention have the authority to say that the Constitution would be binding when approved by nine states?

2. Why were the sessions of the Convention not open to the public?

3. What arguments were advanced in the states in favor of the Constitution? What were the arguments against it? See Fiske's "Critical Period of American History," Chap. VII.

[1] See page 9.

4. Comment upon these quotations bearing on the Constitution:

"The whole edifice was constructed within the memory of man, upon abstract principles." — *John Stuart Mill.*

"It is the greatest work ever struck off at any one time by the mind and purpose of man." — *Gladstone.*

"There is little in that Constitution that is new. There is much that is as old as Magna Charta." — *James Bryce.*

REFERENCES

Fiske, "Critical Period of American History," Chaps. VI, VII.
Schouler, "History of the United States," Vol. I, pp. 34-47, 53-73.
Walker, "Making of the Nation," Chap. II.

CHAPTER XII

GENERAL VIEW OF THE CONSTITUTION

A Federal Republic. — In the Federal Convention one faction desired to form a centralized or national republic; another faction wished a mere confederation or league of states. The result was a compromise which really satisfied few if any delegates. "Now the American Republic," says Mr. Bryce, "corresponds to neither of these two forms, but may be said to stand between them. Its central, or national government is not a mere league, for it does not wholly depend upon component committees, which we call the states. It is made up of commonwealths, but is itself a commonwealth because it claims directly the obedience of every citizen and acts immediately upon him through its courts and executive officers. Still less are its minor communities, the states, mere creatures of the national government, like the counties of England or the departments of France. They have over their citizens an authority which is their own, and not delegated by the central government. They have not been called into being by that government. . . . The Union is more than an aggregation of states, and the states are more than parts of the Union."[1]

Departments of Government. — The Constitution, unlike the Confederation, provided adequate executive, legislative, and judicial departments. Each department of government

[1] "American Commonwealth," Vol. I, p. 16. Woodburn, "American Republic," pp. 59–70. "The Federalist," No. 39.

was given well-defined functions, and each was rendered largely independent of the others.

System of Checks and Balances. — The makers of the Constitution framed many provisions to guard against the excesses of democracy. Hasty legislation was prevented by requiring a bill to pass both houses and receive the approval of the President, and even then the Supreme Court might declare a law contrary to the Constitution, and hence null and void. The President was not to be elected directly by the people, but by electors chosen by the people, and senators were to be elected by the state legislatures. The checks and balances of the Constitution were enumerated by John Adams as follows: "First, the states are balanced against the general government. Second, the House of Representatives is balanced against the Senate, and the Senate against the House. Third, the executive authority is in some degree balanced against the legislature. Fourth, the judiciary is balanced against the legislature, the executive, and the state governments. Fifth, the Senate is balanced against the President in all appointments to office and in all treaties. Sixth, the people hold in their hands the balance against their representatives by periodical elections. Seventh, the legislatures of the several states are balanced against the Senate by sexennial elections. Eighth, the electors are balanced against the people in their choice of President and Vice-President."[1]

Since the adoption of the Constitution, the United States has grown much more democratic, but most of the checks and balances mentioned by John Adams remain.

[1] John Adams, "Works," Vol. VI, p. 467.

Powers Given to the United States Government. — The powers of the Federal government are enumerated in the Constitution. They include the most important powers that can be exercised by a sovereign state. Not only is this true, but many sovereign powers are either denied unconditionally to the states, or may be exercised only by consent of Congress.

Implied Powers. — The question whether Congress possessed any authority not expressly granted by the Constitution first arose in 1791 over the proposition to establish a Bank of the United States. Jefferson contended that Congress possessed no power to establish a bank, as it was not expressly granted in the Constitution; while Hamilton argued that such powers need not be expressly granted, being implied in the so-called elastic clause which gives Congress authority "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof." [1]

Hamilton said that a bank was necessary and proper in order to carry into effect specifically granted powers such as those relating to taxation and borrowing money. Those advocating Hamilton's position became known as "loose constructionists," as they thought the clause should be construed liberally or loosely; their opponents, who believed in rigid construction, were called "strict constructionists." Hamilton and his friends succeeded in their efforts, and their position was later indorsed by the Supreme Court. Many

[1] Art. I, Sec. VIII, clause 18.

measures, whose constitutionality depended upon loose construction, have been passed by Congress. Parties in power have generally adhered to loose construction, whatever position they may have taken when out of power, and the nation as a result has steadily grown in importance and authority.

Amendments. — Experience under the Articles of Confederation proved that some reasonable method of amendment was necessary. The Constitution provides that a suggested amendment must be approved by a two-thirds vote of each house of Congress, or by a Convention which has met in response to a call of two-thirds of the state legislatures. The proposed amendment must then be ratified by three-fourths of the state legislatures, or by conventions chosen for that purpose in three-fourths of the states. Amendments are thus made difficult, but not impossible.

The National Bill of Rights. — The first eight amendments to the Constitution constitute a bill of rights similar to those in the state constitutions. There was no little objection to the Constitution because it contained no bill of rights, and, therefore, one was passed by the first Congress and was promptly ratified by three-fourths of the state legislatures. *Unless the states are specifically mentioned, limitations imposed by the Constitution are upon the United States government alone.*

Rarity of Amendments. — The amendments to the Constitution will be considered in their proper connection. We may, however, state now that formal amendments

have been very few. The first ten amendments were proposed by the first Congress and were practically a part of the original instrument. The Eleventh Amendment belongs to the same period. It limits the judicial power of the United States so that a person cannot make a state a defendant before the United States courts. Such an amendment would never have been adopted after the national spirit had become strong, and it well shows the intense state feeling that prevailed when, in 1798, it was proclaimed after having received the approval of three-fourths of the state legislatures. The last three amendments relate to questions arising from slavery and were passed under extraordinary circumstances. The Twelfth Amendment was passed in order to prevent a tie in voting for a President of the United States. The original instrument provided that electors should vote for two candidates without stating which they desired to become President. The one receiving the highest vote became President, the one receiving the next highest vote became Vice-President. The Twelfth Amendment, passed as a result of a tie between Jefferson and Burr, provided that electors should name their choice for President and Vice-President.

In the long period stretching from 1804 to 1865, no formal amendment to the Constitution was made, nor has any been made since 1870.

QUESTIONS ON THE TEXT

1. Show that the United States is more than a league of states.
2. What is the value of the system of checks and balances found in the Constitution?
3. Explain the difference between "strict construction" and "loose construction."

4. Why is the power of amendment to the Constitution necessary?

5. Explain the circumstances under which the various amendments have been passed.

QUESTIONS SUGGESTED BY THE TEXT

1. Why have parties in power generally inclined towards loose construction, while parties out of power have leaned toward strict construction?

2. In what way, other than by amendments, has the Constitution been changed since 1787?

CHAPTER XIII

EXECUTIVE DEPARTMENT

A Single Executive. — The Federal Convention recognized the need of a real executive, but the fear of a one man power was so great that there were arguments advanced in favor of an executive committee. Fortunately the Convention decided that responsibility, promptness, and efficiency would be better secured under a single executive than under a board. The President, being elected by the people, is independent of other branches of government. The Constitution refers to the chief executive as the "President," and he is addressed as "Mr. President," or in official documents is the "President of the United States."

Constitutional Qualifications. — The Constitution, Article II, Section 1, Clause 4, gives the necessary qualifications for the President as follows:

> "No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States."

"Natural born" citizen includes those born of American parents on American ships in foreign ports or on the high seas, or in American Embassies and Consulates, all of which are considered, by the principles of ex-territoriality, as within the United States and under its laws. Children

born to American parents who are traveling in foreign countries are also regarded as native born.

Term of Service and Salary. — The President is elected for a term of four years. He is eligible to reëlection, but custom has decreed that he shall not be given a third term. Washington refused to accept a third term, and Jefferson also refused to be candidate for a third term. Until 1880, when an effort was made by some of President Grant's friends to secure him a third term, the precedent was never in danger of being broken. President Grant failed to secure the nomination, and it is now regarded as part of the unwritten Constitution that a President is ineligible for a third term.

The salary of the President is now fixed by law at $50,000 a year; prior to 1873 it was $25,000.

The salary is regarded not as a recompense for services, but as affording the President the means of living in a style fitting his exalted office. The honor of the office is the President's reward. In addition to his salary, the President is given the use of the White House during his term of office.

The Powers of the President. — The extent and variety of the President's powers place him among the most influential of modern executives. Few monarchs have so much authority as the President exercises during his four years' term of office. "The President enjoys more authority, if less dignity than a European king." His Cabinet is responsible to him and not to Congress, and he cannot be removed from office unless by impeachment, death, or incapacity to perform the duties of the office.

Executive Power. — It is the President's duty under the Constitution to take care that the laws be faithfully executed. "Four-fifths of his work is the same in kind as that which devolves on the chairman of a commercial company or the manager of a railway, the work of choosing good subordinates, seeing that they attend to their business, and taking a sound practical view of such administrative questions as require his decision." [1]

> The President "shall nominate and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointments of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments." [2]

Congress has vested certain minor appointments in the President alone, in judges, and in heads of departments, but the majority of offices are filled by the President "by and with the advice and consent of the Senate." In making nominations the President is accustomed to rely to a large extent upon the advice of senators and representatives of his own party and heads of departments to whom the appointee will be responsible. A custom known as "senatorial courtesy" requires that appointments shall not be confirmed by the Senate unless acceptable to one or both of the senators of the state in which the officer will

[1] Bryce, "American Commonwealth," Vol. I, p. 76.

[2] Const. Art. II, Sec. II, cl. 2.

serve, provided they are members of the party in control of the Senate.

The members of the Constitutional Convention never intended to give the appointive power in order that it might be used for political ends. Officers who exercise some influence on public policies should be in political harmony with the President; but the great army of officeholders, such as postmasters and revenue collectors, are administrative and not political officers. Their positions should be for life, or during good behavior.

The Spoils System. — President Jackson was the first President to turn men out of office by wholesale for the sole reason that they had not voted for him. He did not invent the "spoils system;" [1] that was in full swing in New York and Pennsylvania before his election. Jackson was inclined to doubt the honesty and patriotism of anyone who differed from him politically, and he proceeded to turn out of office members of the Federal party and put Democrats in their places. The pernicious idea that rotation in office is a democratic principle had gained great strength about that time, and is not yet entirely eliminated.

Civil Service Reform. — Congress has the power to determine upon the qualifications of the officeholders, the conditions of their tenure of office, and methods of promotion. The first real step in the direction of civil service reform was taken in 1883 when Congress passed an act creating a Civil Service Commission of three members, only two of whom might belong to the same political party. The Act

[1] W. L. Marcy, of New York, in defending the system before the Senate, used the expression, "to the victors belong the spoils."

provided that competitive examinations should be held for testing the qualifications of candidates for minor positions in the departments at Washington, in the customs houses, and in post-offices where at least fifty officials were employed. When a vacancy occurred it was to be temporarily filled from among the three applicants who stood highest on the list of those who had passed the examination, and final appointment was to be made after six months of satisfactory service. The law did not extend to positions for which appointment is made with the consent of the Senate, or to the positions filled by unskilled labor. The President was given authority to extend the "classified service." At first there were included under the provisions of the Act about 14,000 offices, but the number has increased until about half of the offices are under the protection of the civil service law.

It is to be hoped that the law will soon cover all minor offices. Removal of officers protected by the Civil Service Law can only take place for cause and upon written charges, which the accused must be permitted to see and disprove if he can.

Two provisions of the Act have been of great benefit: one of these prohibits the forcing of government employees to pay part of their salaries as a contribution to political funds, and the other prohibits the use of official authority from influencing or coercing the vote of any citizen.

Power of Removal. — Removals from office, except those under the protection of the Civil Service Act, may be made by the President, and vacancies so created are filled by the advice and consent of the Senate. A vacancy may be filled during a recess of Congress on appointment of the

President, and the appointment comes before the Senate for approval at its next session.

The President's Use of Military Power. — The President is enjoined by the Constitution to protect every state from domestic violence on application of the legislature, or the executive when the legislature is not in session. The President is the sole judge as to whether the Federal troops should be ordered to the scene of disorder and whether martial law should be declared.

Another clause of the Constitution requires the President to take care "that the laws be faithfully executed," and under this clause, when the laws of the United States are violated within a state or the functions of the Federal government are interrupted, the President may send troops to the seat of the disorder without awaiting any request from the state authorities, or even in opposition to the desires of the governor. In this manner President Cleveland intervened during the Chicago strikes of 1894, in order to protect inter-state commerce and to enforce compliance with the postal laws of the United States.

War Powers of the President. — The powers of the President may be vastly expanded in time of war. The President is Commander-in-Chief of the army and navy and is responsible for "the faithful execution of the laws." During the Civil War, President Lincoln, without awaiting authorization by Congress, proclaimed a blockade of southern ports, enlisted an army, suspended the writ of habeas corpus in many sections of the North, and emancipated the slaves. All of these were extraordinary acts, but they were justified on the plea of military necessity.

President Lincoln wielded more power than "any Englishman has done since Oliver Cromwell."[1]

Legislative Power. — The President may advise Congress in regard to legislation, and he has a direct control over legislation. The advisory power is exercised by means of messages to Congress. The President's annual message, submitted to Congress during the first week of every session, is largely filled with accounts of the work of the executive departments and an account of the state of the country. The President may incorporate in his annual message recommendations in regard to legislation. Special messages are sent to Congress at special sessions and at any other time when the President thinks it necessary. Special messages deal with specific questions and have exercised a great influence over legislation. Until the administration of Jefferson, it was the custom for the President to address Congress orally. Jefferson was an indifferent speaker, but he wielded a facile pen, and for this reason he preferred to send to Congress a written message. His example in this respect has been followed by his successors, and now no President would think of orally addressing Congress.

Through the veto power, the President exercises direct control over legislation. If the President does not approve of a bill which has been presented to him for his signature, he may return it to the house in which it originated with a statement of his objections. The bill cannot then become a law unless it is passed over his veto by a two-thirds[2]

[1] Bryce, "American Commonwealth," Vol. I, p. 61.

[2] Two-thirds of a quorum, not of the total number elected.

majority in each house. Should the President not return or sign a bill within ten days (Sundays excepted) after he has received it, the bill becomes a law without his signature, unless the bill be received within ten days of adjournment, in which case it cannot become a law without the President's signature. If the President refuses to sign or veto a bill which has been presented to him within ten days of adjournment, the bill is said to be defeated by a "pocket veto."

Treaty-making Power. — The treaty-making power is closely allied to legislative power, as a treaty is the supreme law of the land. Treaties must be consistent with the Constitution, otherwise they are null and void. A treaty may be repealed by a subsequent treaty or by a subsequent law. "If a treaty and a law are in opposition, their respective dates must decide whether the one or the other is repealed."

The President is empowered "by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur." The President, through the Secretary of State, has control over the framing of the treaties. The Senate may approve, reject, or modify the terms of a treaty. In case the terms of a treaty are modified by the Senate, the amendments must be approved by the President and the government concerned before the treaty goes into effect.

The House of Representatives has no power in making treaties, though they are as much law as an act of Congress. The House might, however, refuse to vote money called for by a treaty, and it has claimed this right on numerous occasions.

Pardoning Power. — The President has power to pardon or reprieve persons who have been convicted of violating national laws, except in cases of impeachment.

The Vice-President. — The Vice-President is chosen in the same way as the President, and his qualifications are the same. He presides in the Senate, but has no vote, except in case of a tie. His annual salary is $8,000.

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the Vice-President."

Impeachment.

> "The President, Vice-President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors."
>
> (Const. Art. II, Sec. 4.)

The House of Representatives has the sole power of impeachment, but the impeachment must be tried by the Senate, and no person can be convicted without a two-thirds vote of the members present.

When the President of the United States is tried, the Chief-Justice of the United States must preside. No President of the United States has been removed from office by impeachment, though President Johnson, in 1868, narrowly escaped such a fate.

Presidential Succession. — Should a Vice-President who has succeeded to the presidency be removed from office

for any cause, it is provided by the Presidential Succession Act of 1886, that the following heads of executive departments may succeed to the presidency in the order given:

1. Secretary of State.
2. Secretary of the Treasury.
3. Secretary of War.
4. Attorney-General.
5. Postmaster-General.
6. Secretary of the Navy.
7. Secretary of the Interior.

QUESTIONS ON THE TEXT

1. Mention five important duties of the President of the United States.
2. What is the official designation of the President?
3. Would a man born of American parents who were temporarily residing in London, be eligible to the presidency?
4. What are the "war powers" of the President?
5. Describe the "spoils system." What efforts have been made to lessen its application?
6. What is meant by "senatorial courtesy"?
7. How may a President be removed from office?

QUESTIONS SUGGESTED BY THE TEXT

1. Give reasons for the conditions governing eligibility to the office of President.
2. What class of offices should be exempt from the requirements of the Civil Service Act? Give reasons for your opinion.
3. Why is the Secretary of State named first in the Presidential Succession Bill of 1886?
4. Compare the power exercised by President Lincoln with the authority of a dictator under the Roman Republic.

REFERENCES

Bryce, "American Commonwealth," Vol. I, Chaps. V–IX.
Ford, "American Politics," Chap. XXII.
Wilson, "The State," Secs. 1323–1351.
Hart, "Actual Government," Chap. XV.
Woodburn, "American Republic," Chap. III.

CHAPTER XIV

THE NOMINATION AND ELECTION OF A PRESIDENT

Rise of National Nominating Conventions. — There was no need of any system of nominations for the first three presidential elections. Washington had no opposition for the nomination, and in the third election Adams and Jefferson were, by common consent, the candidates of their respective parties.

In 1800, candidates of both the Republican and Federal parties were nominated by a conference, or caucus, of the party members in Congress. This plan was followed in every election until 1820, when there was no Congressional caucus, as Monroe was the choice of all. The Congressional caucus was never again restored. In 1824, it is true, sixty-six Democrats attended a caucus and made a nomination for President, but their nominee was not accepted by the party and was badly beaten at the polls. From 1824 to 1840, candidates for the presidency were nominated in a variety of ways: sometimes by state legislative caucuses; sometimes by state conventions; sometimes by a "mixed convention" composed of the party members of a state legislature, together with delegates from counties and towns not represented in the legislature by members of the party holding the convention.

During this transition period, state candidates were nominated by state conventions, and the suggestion was often made that presidential candidates be nominated by a national convention. The first national nominating con-

vention was held by the Anti-Masonic party in 1831 at Baltimore. In 1840, all parties made nominations in national conventions, and there has never since been a departure from this method.

Selection of Delegates to a National Convention. — The national conventions of each party are composed of twice as many delegates from each of the states as the state has representatives and senators in Congress.[1] Delegates to the national conventions are chosen in various ways, but as a rule, two delegates are selected by the district conventions of each party and four delegates at large by the state conventions. The Democratic party has no uniform rule, but the Republican party, in 1892, adopted a rule that "each Congressional district in the United States shall elect its delegates to the national convention in the same way as the nomination of a member of Congress is made in each district," and delegates at large shall be elected in the state conventions. In the same manner and at the same time with the delegates, "alternates" are chosen who may take the place of regular delegates in case the latter cannot attend the convention.

Meeting of a National Convention. — The national conventions always meet in a large city, and the sessions are held in immense halls. "The usual membership of two from each Congressional district, four delegates at large, and six from each territory, gives a total of 994."[2] Alter-

[1] Delegates from territories and District of Columbia are also admitted.

[2] Hart, "Actual Government."

nates are provided with seats, the press is given accommodations, and the galleries are filled with spectators.

Proceedings are similar to those in a state convention, though excitement runs much higher. As candidates are nominated, their supporters cheer as lustily as they can. A prominent candidate may be sure of a "demonstration" lasting from fifteen to thirty minutes. In a Republican convention a majority vote is required for nomination, but in a Democratic convention a two-thirds vote is required. After having nominated a candidate for President, the convention nominates a candidate for Vice-President, who must not be from the same state as the presidential nominee. Very often candidates for the vice-presidency are nominated to please some minority faction or to carry some doubtful state. Men of the highest ability, with a few exceptions, have within the last eighty years been loath to become candidates for Vice-President.

The Campaign. — National conventions meet late in June or early in July, and a few weeks later the candidates are formally notified of their nomination. The campaign does not open in earnest until about the middle of September, and it gets more and more exciting until the election on the first Tuesday after the first Monday in November. Vast sums of money are raised and expended by the committees of each party. Some of it goes to circulate campaign literature of an argumentative nature and to secure speakers of real ability, but much is expended for campaign clubs, fireworks, banners, and other such aids to the voter in forming an intelligent judgment.

Presidential Electors. — The members of the Federal Convention feared that a direct popular vote for President

would result in the choice of a demagogue. Congress could not be given the duty of electing a President without making him dependent upon that body, and so the Electoral College was decided upon as a happy way out of the difficulty. Each state was to choose as many electors as it had representatives and senators, and several weeks after the election the electors were to meet at their respective state capitals and there vote for President and Vice-President. No portion of the Constitution was more applauded than this, and none has so signally failed to meet the expectations of its framers. Electors have become mere automatons. They vote as they have been instructed, and few voters know or care about the Electoral College.

It would be legal for an elector to vote for another than his party nominee, but none would do it, as he would be looked down upon by all men as one who had betrayed his party.

Electors are now chosen on a general ticket in all the states, but at the head of the ticket are placed the names of the candidates for President and Vice-President, so the voter may know for whom he casts his ballot.

The electors meet in their respective state capitals on the second Monday in January, and, after voting, three certificates of the results of the ballots are prepared. One certificate is filed with the Judge of the United States District Court, one is forwarded by mail to the President of the Senate, and another by messenger to the same person. On the second Wednesday of February the ballots are opened by the President of the Senate before the members of the House and Senate, and the result of the election is formally announced.

Election by the House of Representatives. — Should no person receive a majority of the electoral vote, the Constitution provides that the House of Representatives shall choose a President from the three candidates who received the highest number of votes in the Electoral College. The House in electing a President votes by states, each state being given one vote. Members must be present from two-thirds of the states, and a majority of all the states is necessary for an election.

If the Electoral College does not elect a Vice-President, "then from the two highest on the list the Senate shall choose the Vice-President; a quorum shall consist of two-thirds of the whole number of senators, a majority of the whole number being necessary to a choice."

The Twelfth Amendment. — In the election of 1800, Jefferson and Burr received the same number of votes. It was understood that the voters wished Jefferson to be President and Burr to be Vice-President, but as the Constitution then stood, the election had to be decided by the House. Jefferson was elected, but only after a bitter contest in which thirty-six ballots were cast. The result was that a Twelfth Amendment was added to the Constitution which provided that the electors should ballot separately for President and Vice-President, instead of having the presidency filled by the man who received the highest vote and the vice-presidency by the one who received the next highest.

The Election of 1824. — The Electoral College in 1824 failed to give any candidate a majority and again the election went to the House. Jackson had received ninety-

five votes, Adams eighty-four, Crawford forty-one, and Clay thirty-seven. Clay being fourth on the list could not be a candidate before the House, and by the aid of Clay's adherents Adams was elected.

The Disputed Election of 1876. — The election of 1876 resulted in Mr. Tilden, the Democratic nominee, receiving without question 184 electoral votes, and Mr. Hayes, the Republican candidate, receiving 163 undisputed electoral votes. In four states, Oregon, Florida, South Carolina, and Louisiana, there were disputed returns. If in any one of these states Mr. Tilden could secure one electoral vote he would be elected; the Republicans needed the entire twenty-two votes of these states in order to elect Mr. Hayes. In each of the disputed states two sets of electors met on the appointed day, and two certificates were sent from each state to Washington, one for Hayes and one for Tilden. There was no recognized manner of deciding the contest, and at last the whole matter was put by Congress in the hands of an "Electoral Commission," composed of five senators, five representatives, and five judges of the Supreme Court. The Senate, being Republican, elected to the Commission three Republicans and two Democrats. The Democratic House elected three Democrats and two Republicans. The law required two Democrats and two Republicans to be appointed from the Supreme Court, and these four were to choose a fifth member. It was understood that Justice Davis, an independent Republican with Democratic leanings, would be selected, but he was at this juncture elected to the United States Senate by Illinois, and the choice fell upon a Republican, Justice Bradley. The Commission by a strict party vote, eight to seven, decided

all contests in favor of the Republican electors, and Mr. Hayes was declared elected by a vote of 185 to 184.

Disputed Elections Act of 1887. — In order to avoid another contest like that of 1877, Congress passed an act, in 1887, which provides that the President of the Senate, in the presence of the two houses of Congress, shall open all certificates of the electoral votes in the alphabetical order of the states. The President of the Senate shall call for objections, and when an objection is made to any certificate the houses shall separate and consider the objections. No electoral vote from any state may be rejected in case but one certificate has been received, unless the houses acting separately so decide; state tribunals shall determine what electoral votes of the states are legal votes, and their decision shall be final; in case two or more tribunals send in conflicting returns, that return which the two houses concurrently accept shall be counted; when there is one state government and two conflicting returns, the one which is approved by the executive of the state shall be accepted, unless both houses, acting separately, decide otherwise; in case the state has appointed no tribunal to determine the issue and two returns are received, the two houses shall decide which is the lawful vote; if the houses fail to agree, the vote of the state is lost.

QUESTIONS ON THE TEXT

1. Describe the method now in use for nominating candidates for President of the United States.
2. Describe the Constitutional method of electing a President, and show how it has failed to work in the manner desired by its framers.

3. What are the provisions of the Twelfth Amendment to the Constitution, and what were the circumstances that gave rise to this amendment?

4. Give an account of the disputed elections of 1824 and 1876.

5. Describe the manner of choosing the Vice-President in case no person has a majority of all ballots cast by the Electoral College.

QUESTIONS SUGGESTED BY THE TEXT

1. Give arguments (*a*) sustaining the present mode of electing a President and Vice-President; (*b*) favoring their election by direct vote of the people.

2. Find, by reference to the Constitution, what persons are prohibited from being members of the Electoral College, and give reasons for their exclusion.

3. In proportion to population does New York or Rhode Island have the greater influence in electing a President?

4. Show how a President may be elected by a minority of the voters of the United States.

5. Have national conventions been influenced by the same motives in nominating candidates for the vice-presidency as in nominating candidates for the presidency?

6. Why were the vice-presidents in the first decade of our country's history more prominent men than they have been in the last half century?

References same as in previous chapter.

CHAPTER XV

THE CABINET AND EXECUTIVE DEPARTMENTS

The Cabinet. — Nowhere in the Constitution is a Cabinet mentioned, but it is implied in Article II, Section 2, which gives the President authority to require an "opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices."

Executive departments have been created from time to time by act of Congress. Washington's Cabinet consisted of a Secretary of State, a Secretary of the Treasury, a Secretary of War, and an Attorney-General. The latter officer was not head of a separate department until the Department of Justice was created in 1870.

Other executive departments have been added in the following order:

Navy Department, in 1798.
Post Office Department, 1829.[1]
Department of the Interior, 1848.
Department of Agriculture, 1889.
Department of Commerce and Labor, 1903.

The heads of these departments act as advisers to the President and constitute his Cabinet. The President is under no obligation to consult with his Cabinet and need not follow its advice. Meetings of the Cabinet are usually held twice a week during the sessions of Congress and

[1] The postal service has existed since colonial times, but was not a separate department until 1829.

at any other time when the President desires. Cabinet meetings are behind closed doors, and no record of the meetings is preserved. The heads of executive departments are appointed by the President "by and with the advice of the Senate," and they may be dismissed at any time by the President. No Cabinet member may have a seat in Congress. Cabinet members receive a salary of $8,000 each, which is hardly adequate to pay their necessary expenses.

The English Cabinet. — The President's Cabinet received its name from the English Cabinet. Like the President's Cabinet the members of the English Cabinet are heads of executive departments. The English Cabinet is also unknown to the English Constitution, and no record is kept of its meetings. In other respects the two cabinets are very different. Members of the English Cabinet are nominally appointed by the crown, but actually the king must respect the wishes of the majority in the House of Commons. When a new Cabinet is required, the king sends for the recognized leader of the party which has a majority in the House of Commons and asks him to select a Cabinet. Cabinet members are chosen by the political leader after consultation with prominent members of the party, or rather "they have, so to say, chosen themselves by a career of steady success in the debates of the houses: they have come to the front by their own efforts, by the force of their own ability, and represent, usually, tried parliamentary capacity. Such capacity is necessary for their success as ministers; for when they have entered the Cabinet, they constitute, in effect, a committee of the majority of the House of Commons, commissioned to lead

Parliament in debate and legislation, to keep it — and, through it, of course, the country at large — informed concerning all important affairs of State which can prudently be made public, and to carry out in the conduct of the government, the policy approved of by the representatives of the people."[1] Members of the English Cabinet must be chosen from among the members of Parliament, usually the House of Commons, and they retain their position as legislators. There is, therefore, a union between the legislative and executive departments. A great advantage in the English system is that heads of executive departments, who presumably are well informed concerning subjects relating to their departments, may enlighten Parliament on legislation affecting their departments.

Should the ministers of the English Cabinet be defeated in Parliament on an important measure, or should a vote of censure be passed upon them by the House of Commons, they must resign, or, if the defeated Cabinet thinks the House of Commons does not reflect the sentiment of the voters, they may ask the king to dissolve Parliament and order a new election. If the party of the ministry wins in the election, the Cabinet remains unchanged, otherwise all must resign. This is in effect a "referendum" on important political questions.

The Executive Departments. — Each Cabinet officer is, in addition to being an adviser to the President, the head of an executive department. He is obliged to submit an annual report to the President, which describes the work of his department for the year, and may suggest needful

[1] Wilson, "The State," p. 384.

legislation. The head of each department is called a secretary, except in the case of the Post Office Department, whose head is the Postmaster-General, and the Department of Justice, whose head is the Attorney-General.

Every department has one or more assistant secretaries. The work of the departments is divided into bureaus, and bureaus in turn are divided into divisions. At the head of each bureau is a commissioner, and there is a chief of division in charge of each division.

The Department of State. — The Secretary of State is regarded as holding the most important place in the Cabinet. All correspondence with foreign powers is conducted by the Secretary of State under the direction of the President. He is also the medium of communication between the President and the governors of the various states. The Secretary of State is custodian of the great seal of the United States, which he attaches to all proclamations of the President, commissions, warrants for pardon, and other official papers. The Secretary of State publishes all laws and resolutions of Congress, certified copies of which he sends to the governors of the states. Passports for American citizens who desire to travel abroad, and *exequaturs*[1] to consuls of foreign countries are issued from his office. The office of Secretary of State has been filled by some of the most eminent of American statesmen. Among these have been Jefferson, Madison, Monroe, John Quincy Adams, Henry Clay, Daniel Webster, John C. Calhoun, Edward Everett, William H. Seward, James G. Blaine, and John Hay.

[1] That is, official recognition by the government.

The Diplomatic Service. — The United States is represented by an official at the capitals of foreign nations, and in like manner, foreign nations are represented in Washington. The United States has four classes of diplomatic representatives — ambassadors, envoys extraordinary and ministers plenipotentiary, ministers resident, and chargés d'affaires, who are subordinates temporarily in charge of a legation. Until 1893 the United States was not represented by officers of the highest rank, but now ambassadors are sent to Great Britain, France, Germany, Russia, Italy, Austria, and Mexico. The rank of ambassador was created in order that the United States might have representatives whose official dignity would correspond with that of representatives of other first class powers. Diplomatic officers of a lower grade than ambassadors are sent to the less important nations.

Diplomatic officers are the mediums through which the Secretary of State communicates with foreign powers. They are also the official representatives of the United States on state occasions, and have general care of the interests of the United States in the countries to which they are accredited.

The highest annual salary paid ambassadors is $17,500; ministers receive from $4,000 to $12,000. These salaries are very low as compared with sums paid by the other first class powers: the British Ambassador at Washington receives an annual salary of $32,500, and the British Ambassador at Paris receives a salary of $40,000. Besides their salaries most foreign powers of the first rank furnish their ambassadors with residences. Members of the diplomatic service have so many social duties that only men of independent fortunes can afford to represent the United States.

Members of the United States diplomatic corps are appointed by the President, with approval of the Senate. They are usually men who have rendered some service to the party in power, and their tenure of office is seldom longer than eight years. No opportunity is afforded for men to devote their lives to this service, though foreign nations offer such opportunities to their ministers. It has sometimes happened that a minister could not speak fluently the language of the country to which he was accredited, and sometimes he has been unable to speak French, the common language of diplomats the world over. However, as a rule, American ministers to the great powers have been men of marked ability, who have been able to represent the United States in a manner acceptable to all concerned.

The Consular Service. — A bureau of the Department of State is devoted to the consular service. The United States sends consuls to all important commercial cities in foreign countries. The consuls have numerous commercial duties. They certify invoices, take testimony, look after American seamen and travelers, and make reports on trade conditions with especial reference to opportunities for American trade. In addition to commercial duties, some consuls have judicial functions. In Turkey and China, where the local courts cannot be trusted, consuls act as judges in criminal cases involving two Americans or an American and a native. Consuls may also investigate crimes which occur on American vessels on the high seas. There are three principal grades in the consular service: consuls-general, consuls, and consular agents. A consul-general is located in the capital of the country to

which he is accredited, and has general charge over all the consular offices in the country.

Consuls are paid salaries ranging from $7,500, paid to some consuls-general, to $1,000. In an important city, unofficial fees, such as for the acknowledgment of legal papers, may add a few hundred dollars to the consul's income. Though the salaries are small, there is great political pressure exerted for consular appointments. Numerous efforts have been made to establish a system of appointments and promotions for merit and to increase salaries in the consular service, but all such efforts have been unavailing up to the present time.

The Treasury Department. — The Secretary of the Treasury is regarded as holding an office second in dignity to that of the Secretary of State, but actually his office is fully equal in importance. The Secretary of the Treasury is obliged to see that the revenues of the United States are sufficient to meet its expenses. He submits annually to Congress a budget, or an estimate of receipts and expenses for the coming year. Through the budget and his annual report, the Secretary of the Treasury may exercise a great influence on the financial policy of the nation. Hamilton, as Secretary of the Treasury, had a political influence second to no statesman whom America has produced.

The Secretary of the Treasury has charge of the administration of all financial affairs of the government. Under his direction money is coined and United States notes and bonds are printed and issued. National banks are under the supervision of an officer of the Treasury Department.

The War Department. — The Secretary of War is seldom a man of military training, but he is the real com-

mander of the army, acting for the President who is Commander-in-Chief. The various bureaus are in charge of officers of the United States Army, who, together with the commanding general of the army, constitute the General Staff. The General Staff has supervision over the entire army, and in time of war is responsible for the planning of military campaigns.

The maximum strength of the army is fixed by the act of 1901, at 100,000 men, and the minimum at 57,000. The actual number of enlisted men is now about 60,000. Each state maintains a militia, called the National Guard, and Congress aids in the equipment of these troops, which answer the purpose of a reserve army.

The Secretary of War has charge of the Military Academy at West Point, which has been maintained since 1802 for the training of officers for the army.

Each Congressional district and each of the territories is entitled to one cadet; each state may have two additional cadets, and forty are appointed from the country at large. Appointments from Congressional districts are made by the Congressman or the territorial delegate, state appointments are made by the two senators, and appointments at large are made by the President. Every applicant for admission is required to pass a physical and mental examination. After completing the four years' course in the Academy, cadets are commissioned as second lieutenants in the United States Army.

The Department of War has supervision of the engineering work of the government, the improvement of rivers and harbors, and must see that no obstructions to navigation are permitted. The Secretary of War has charge of all national cemeteries.

UNITED STATES BATTLESHIP "OREGON"

The Navy Department. — Until the creation of a Navy Department, in 1798, naval affairs were intrusted to the War Department.

The Secretary has charge of the construction, equipment, and employment of the navy of the United States. The great Naval Observatory at Washington and the Naval Academy at Annapolis are under his direction. The Naval Academy was established in 1845. Midshipmen are appointed in a manner similar to the appointment of cadets in the Military Academy, but the number who may be appointed is considerably larger. The course extends over six years, the last two of which must be in active service at sea.

The Department of the Interior. — The Interior Department was brought into existence in order to provide for certain duties which could not properly be assigned to any existing department. Its functions are many and diverse.

The Commissioner of Pensions examines and acts upon all applications for pensions and has general charge of all pension matters.

The United States has been more generous in dealing with its soldiers and sailors than any other nation in the history of the world. There are now on the pension rolls about 1,000,000 names, and to these persons an annual amount aggregating about $140,000,000 is paid.

The Commissioner of the General Land Office is in charge of all government lands. He supervises surveys of public land, and under his direction public land is sold, or distributed in accordance with the terms of the Homestead Act.

The Commissioner of Indian Affairs has charge of the education and government of the Indians, with the exception of some tribes whom former treaties have left free to care for themselves.

The government no longer treats Indian tribes as independent nations, but regards them as the wards of the United States. Indian agents are sent to each reservation, and they have charge of all matters at the reservation, Cattle, food, clothing, and agricultural implements are distributed among the Indians by the Indian agents.

Schools for the Indians are supported by appropriations made by Congress. Though the United States has made an honest effort to deal fairly with the Indian question, it still remains a difficult problem. In twenty years about $45,000,000 have been expended by the government for the education of the Indians, but not more than one in six is able to read. Doubtless the present Commissioner of Indian Affairs is correct in contending that they should be taught a trade and encouraged to seek outside opportunities for work, and not be held in reservations dependent upon public alms. In 1901, there were in the United States 269,388 Indians, of whom 86,039 were in the Indian Territory.

The Commissioner of Education collects and publishes information in regard to schools, methods of instruction, discipline, etc. The reports of the Bureau of Education have been of great aid to the cause of education.

The Commissioner of Railroads has charge of the government's interests in certain trans-continental railroads. Congress in 1862 and 1864, granted to several railroads lands adjoining their right of way and loans of credit in the shape of bonds on which the government guaranteed

six per cent. interest. The lands were given to the roads, but the bonds were to be repaid.

The Commissioner of Patents has charge of the granting of patents. The Director of the Geological Survey investigates the geological structure of various parts of the country and issues reports which give the results of his labors. His work includes plans for the irrigation and reclaiming of waste lands.

Post Office Department. — The Postmaster-General has charge of the United States postal service. There are over seventy-five thousand post offices in the United States, and the vast majority of the postmasters in charge of these offices are appointed by the Postmaster-General. Only about 5,000 postmasters, whose salaries are over $1,000 each, are appointed by the President with the consent of the Senate.

The patronage of the Post Office Department is the most important of any of the departments, as many of these officials are not under the civil service rules. As a consequence, there is a change of postmasters throughout the country with every political change, and the service is injured thereby. Minor employees of the post office, such as mail clerks and carriers, are under Civil Service rules. The railway mail clerks are also thus protected.

The Post Office Department conducts one of the greatest business enterprises within the United States. The expenses of the department are over one hundred and twenty-five million dollars a year, of which over twenty million is paid in salaries to postmasters, and over sixty-one million dollars for transportation of the mails.

The department is not managed for the sake of making

money, but for the public advantage. There is an annual deficit of two or three million dollars, due chiefly to the cheap rates at which newspapers and magazines are carried. The present rates were adopted in 1883, and will be lowered as soon as it can be done without resulting in too large a deficit. Free delivery is furnished in all cities and large towns, and in 1897 the sum of $40,000 was expended for a trial of rural free delivery. The experiment of rural free delivery was a success, and this has now become an important part of the service.

The post office registers valuable letters and packages on payment of eight cents in addition to postage, and should a package be lost the sender may be reimbursed to an amount not exceeding twenty-five dollars. All large offices sell money orders, by means of which money may be cheaply and safely sent to domestic or foreign places.

The United States is a member of the Universal Postal Union, which includes all the civilized nations of the world. Members of this Union agree upon a uniform rate for foreign postal matter, and extend every facility for carrying each other's mail. Much as our Post Office Department does, it is less than the service rendered by most European post office departments. Postal savings banks, parcels post,[1] and postal telegraph are common in Europe.

The Department of Justice. — The Attorney-General has always been a member of the Cabinet, but a separate Department of Justice was not established until 1870. The Attorney-General is legal adviser to the President and to

[1] The weight limit in the United States is four pounds for merchandise.

the heads of departments. He has charge of cases to which the United States is a party, and sometimes appears before court as the attorney for the United States. Marshals and district-attorneys are under his supervision.

The Department of Agriculture. — The Department of Agriculture was organized as a separate department in 1862, but not until 1889 did the head of the department become a cabinet minister. The department investigates injurious plants and animals, and endeavors to find the best means for their extermination. Fertilizers and soils are investigated and the results published by the department. The department has done much to put agriculture on a scientific basis.

The Bureau of Animal Industry inspects herds of cattle, and causes those afflicted with contagious diseases to be destroyed. A large part of the meat shipped from the West to eastern markets is inspected, and most of the cattle and meat intended for export is inspected. This bureau also investigates diseases of animals, and endeavors to find the best methods of treatment.

The department tests seeds, and distributes a limited quantity of "rare and valuable" seeds throughout the country for the purpose of improving the quality of products and introducing new varieties.

The Weather Bureau of the department sends daily forecasts to stations throughout the country. The bureau is desirous that its forecasts and weather charts should be displayed in every village throughout the country, and as far as practicable, it will send messages at the expense of the bureau to one person in every town, provided that person will publish the reports for the benefit of the pub-

lic. On the Atlantic coast the bureau displays storm signals at one hundred and forty-one stations.

Undoubtedly the Weather Bureau has saved large sums to farmers as well as to those interested in shipping.

The Department of Commerce and Labor. — This is the most recently organized department, and to it have been assigned duties formerly connected with other departments as well as some new executive activities. Lighthouses, life-saving stations, and the survey of the coasts, have been transferred from the Treasury Department to the Department of Commerce and Labor. Consular reports and many statistical documents are now published under the direction of this department.

The Bureau of Labor, first created in 1884 as a bureau under the Interior Department, and four years later made a separate department, is now under the Department of Commerce and Labor. This bureau collects and publishes information on cost of production, wages, hours of labor, strikes and lockouts, and other matters relating to labor.

The Bureau of Corporations has authority to investigate the conduct and management of corporations which are engaged in inter-state business.

A Bureau of Manufactures is designed to aid manufacturing interests by publishing matter of value to those engaged in manufacturing, and by developing home and foreign markets.

The Census Bureau, formerly under the Department of the Interior, has been made a permanent bureau. It publishes a census every ten years, which includes information in regard to population, wealth, vital statistics, agri-

culture, and manufactures. During the time intervening between the preparation and publication of the decennial census, the bureau publishes bulletins based on the census, and collects information on various subjects. The establishment of a permanent Census Bureau in 1902 makes it possible for the government to be served by skilled specialists, and doubtless the census of 1910 will show the value of a permanent Census Bureau.

Separate Commissions and Boards. — A number of commissioners and boards exercise executive functions independent of the nine executive departments. The commissions are as follows: Interstate Commerce Commission, Fish Commission, and Civil Service Commission.

Special Boards are in charge of the Congressional Library, the National Museum, Bureau of Ethnology, the Smithsonian Institute, and the Government Printing Office.

The Government Printing Office is the largest printing establishment in the world. In it all the reports of the government are printed.

QUESTIONS ON THE TEXT

1. Name in order of rank the officers who comprise the President's Cabinet.
2. Compare the American Cabinet with the English Cabinet.
3. Describe the Diplomatic Service and the Consular Service of the United States.
4. Give the name of the executive department which has charge of (*a*) patents, (*b*) transportation of the mails, (*c*) Indian affairs, (*d*) collection of duties on imports, (*e*) passports, (*f*) pensions, (*g*) the census.

QUESTIONS SUGGESTED BY THE TEXT

1. Compare the advantages of a cabinet responsible to the Chief Executive with the advantages of a cabinet responsible to a legislative body. Woodburn, "American Republic," pp. 110–114. Bagehot, "English Constitution," Chap. II. Wilson, "Congressional Government," Chap. V.

2. Give the names of the present members of the President's Cabinet. See newspaper almanacs.

3. What are the defects of our consular service, and how may they be remedied? Hart, "Actual Government," pp. 436–439. Curtis, "The United States and Foreign Powers," pp. 30–33.

4. Describe the "Indian Problem" of the present time. Grinnell, "The Indians of To-day." Hart, "Actual Government," pp. 361–364. Numerous valuable magazine articles may be found by reference to Poole's Index and the Cumulative Index.

5. Prepare a list of Presidents who have been Secretaries of State. Why is it no longer common for a Secretary of State to become President?

REFERENCES

Hart, "Actual Government," Chap. XVI.

Bryce, "American Commonwealth," I, Chaps. IX, XXV.

Ford, "American Politics," pp. 383–396.

Wilson, "The State," pp. 566–570, 378–392.

CHAPTER XVI

THE NATIONAL LEGISLATURE

Congress. — The legislative branch of the United States government consists of a Congress composed of two houses, a Senate and a House of Representatives.

Congress meets every year on the first Monday in December, but the life of each Congress extends over two sessions. The first session, known as the long session, often lasts until midsummer, but must not last beyond the first Monday in December; the short session lasts from December until the fourth of March, at which time the terms of all representatives and one-third of the senators expire. Long sessions end in even years, and short sessions in odd years. The President may call an extra session of Congress whenever in his judgment the public welfare requires it.

The Senate. — The Senate is called the "upper house" of Congress. Each state may be represented by two senators chosen by the state legislatures for a term of six years. The plan of having senators elected by the state legislatures was favored in the Federal Convention, both because it would give the state a voice in the national government, and because it was thought that indirect election would result in the choice of men of wealth and social standing, who would serve as a check upon the more democratic house. The Senate was designed to be a conservative body. An examination of bills passed by the respective houses during the last thirty years shows the Senate to have become more radical than the House.

In order to make the Senate a permanent body, and put it more closely in touch with the people, it was provided that one-third of the senators should retire at the end of each term of Congress. This was effected by dividing the senators into three classes after the first election: the members of the first class were to retire after two years; those of the second class after four years; those of the third class were to serve the full term of six years. At subsequent elections, senators were elected for a six years' term. When new states enter the Union their senators are so assigned as to continue this plan. Senators from the same state always retire from office at different times.

Should a senator resign or die while in office, the governor of the state may appoint a successor to serve during the unexpired term, unless the state legislature is in session.

Qualifications of Senators. — The Constitution provides that in order to be eligible to a seat in the Senate, a person must be at least thirty years of age, must have been for nine years a citizen of the United States, and must, at the time of his election, be an inhabitant of that state for which he is chosen. No person holding any other office under the United States may be a member of either house.

Election of Senators. — According to the Constitution, "the times, places, and manner of holding election for senators and representatives shall be prescribed in each state by the legislature thereof, but the Congress may at any time make or alter such regulations, except as to the places of choosing senators." Congress did not make any such regulation until 1866, when an act was passed which

provided that each state legislature which is chosen next preceding the expiration of the term of either of the state's senators, shall have a session for the purpose of electing a senator on the second Tuesday after assembling. The following method of election is prescribed by the act: each house shall vote separately by open ballot (*viva voce*), and he who receives the majority vote of that house shall be so recorded upon the journal of that house; the two houses are to meet on the following day at 12 M. in joint session, and if the same person has received a majority of votes in each house, he is declared elected; in case no one has a majority vote in each house, the joint assembly votes (*viva voce*), and if any one receives a majority vote he is declared elected; should no person be elected on the first day, the two houses meet in joint session each day, and take at least one vote until a senator is elected or the legislature adjourns. Elections of senators have frequently been turbulent, and sometimes legislatures have failed to choose a senator.

It has often been charged that unfit men have been elected senators and that bribery has been very common. A considerable sentiment has been created in favor of the election of senators by popular vote, and a majority of the state legislatures have at one time or another passed resolutions in favor of the change. Twice a resolution in favor of a Constitutional Amendment to effect this change has passed the House, but it was defeated both times in the Senate. The effect of popular election of senators has sometimes been secured by making the election of a senator an issue before the people in choosing members of the state legislature. A famous example of this is afforded by the Douglas-Lincoln canvass of 1858.

The House of Representatives. — The House of Representatives represents the nation just as the Senate represents the states. Members of the House are chosen by direct vote for a term of two years. Each state is assigned a number of representatives proportional to its population, though each state must have at least one representative. At the time of the Federal Convention, some states required higher qualifications of electors for the higher than for the lower house of their state legislatures, and in order to secure a really popular election for representatives the Constitution provided that "the electors of each state shall have the qualifications required for electors of the most numerous branch of the state legislature." The qualifications for electors are thus left to the states, with the exception that no state may deny the right of suffrage on account of race, color, or previous condition of servitude. The Fourteenth Amendment also provides that if the right to vote for presidential electors or representatives is denied, except for rebellion or crime, to any male inhabitants, who are citizens of the United States, the basis of representation in that state shall be reduced "in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state."

Qualifications for Representatives. — In order to be eligible to membership in the House of Representatives, a man must be at least twenty-five years of age, and must have been a citizen of the United States for at least seven years, and must, at the time of his election, be a citizen of the state from which he is chosen. No person holding any other office under the United States may be a member of the House.

It is customary to require that representatives shall be inhabitants of the district from which they are elected, but there have been numerous exceptions to this rule.

The House, like the Senate, may exclude from membership persons whom it deems morally unfit to have seats in that body.

Apportionment of Representatives. — The number of representatives to which each state is entitled depends upon its population as determined by the United States Census.

Congress decides upon some unit of representation, and the states are assigned representatives for each unit of representation that their population contains, and also a representative for a fraction of a unit if over one-half. At present the unit of representation is 194,182, and the House has 386 members. States with a population of less than 194,182 have one representative.

Congressional Districts. — Prior to 1840 some states elected members of the House by districts and some from the state at large, but in that year Congress passed a law requiring that states should be divided into districts for the purpose of electing members of the House, except that if on account of additional population the state has been assigned new representatives, they may be elected at large until the state is redistricted. The division of states into districts is done by the state legislatures, subject to the restriction that districts must be composed of contiguous territory, and must contain as nearly as practicable an equal number of inhabitants. In redistricting states, the legislatures have frequently resorted to gerrymandering.

Privileges and Remunerations of Members of Congress.— Members of Congress are exempt from arrest in all civil cases and in most criminal cases during a session of Congress and while on their way to and from a session. No member may be prosecuted for libel or slander on account of words spoken in debate. Members are privileged to send their letters through the mails without paying postage, but this franking privilege is supposed to apply only to official letters. Each member of Congress receives an annual salary of $5,000 and mileage at the rate of twenty cents a mile for the round trip, an amount far in excess of the actual traveling expenses; to those members who accept railroad passes, it is almost a clear gain. Members are also allowed $125 for stationery. The Speaker of the House receives a salary of $8,000 a year, being the same amount as that received by the Vice-President and Cabinet members.

ORGANIZATION AND METHODS OF CONGRESS

Organization of the Senate. — The Vice-President of the United States presides in the Senate, and on the first day of a new Congress administers the oath of office to newly elected senators. The Vice-President has little political power, and his activity is confined to presiding and casting a deciding vote in case of a tie. There are between fifty and sixty committees of the Senate, the exact number differing from time to time. Among the most important committees are those on Foreign Relations, Privilege and Elections, Judiciary, Commerce, Finance, and Appropriations. The members of committees are elected by ballot, party caucuses having in advance determined the choice

of each party. Committees are always composed of odd numbers, the majority being from the dominant party.

The Constitution gives each house the power to "determine the rules of its procedure." The rules of the Senate are simple and not often changed. They cover the introduction of bills, order of business, rules of debate, and the preserving of order.

Debate in the Senate is much less restricted than in the House and the proceedings are much more dignified.

The Organization of the House of Representatives. — On the meeting of a new Congress, the Clerk of the previous House calls the House to order and calls the roll of those having certificates of election. After the oath of office has been administered to new members, the House proceeds to elect its Speaker and other officers. The election is generally only a form as party caucuses have previously settled the matter.

The Speaker of the House. — The Speaker of the House is the most important officer of the House, and has more power than any other legislative officer of the United States. The name comes from the Speaker of the House of Commons, but his office is much different. The English Speaker is supposed to exhibit no party preferences, but the American Speaker is the leader of his party. All committees of the House are appointed by the Speaker. This alone gives him vast political power, though his power of appointment is not absolute as members of experience and reputation are assured of positions, and frequently the Speaker promises his party in advance in regard to the composition of some committees.

There are usually about fifty-five House committees of which the most important is that on Ways and Means, whose duty is to consider all matters relating to customs, duties, and taxes.

Other important committees are those on Elections, Appropriations, Rules, Foreign Affairs, Manufactures, Commerce, and Labor. The minority party is given representation on all committees.

The Speaker also exercises much political power through his right of recognition. No one may address the House without being recognized by the Speaker. No doubt it was originally intended, as it was for many years the practice, for the Speaker to recognize the member who first addressed him, but it has come about that the Speaker uses this power for political purposes and recognizes such persons as he wishes.

When a member rises for recognition the Speaker may ask "For what purpose?" and may recognize him if the purpose be satisfactory. The power of the Speaker is not, however, absolute, being limited by the rules of the House, the practice of previous speakers, and parliamentary usage, as well as by the Constitution of the United States. The Speaker is ex-officio chairman of the Committee on Rules, one of the most important of the House committees.

Criticism of the Committee System. — Every bill presented in either house of Congress is referred to an appropriate committee. The power of the committee over bills which have been referred to it is very great.

A committee may alter a bill so that it bears little resemblance to the original bill; it may refuse to report a bill; or it may report it so late in the session as to practically prevent action. Most bills "die in committee."

Mr. Bryce and other critics have found many faults in the American committee system:

1. It destroys the unity of the House, since the practical work of legislation is in committee.

2. It prevents the capacity of the ablest members from being brought to bear upon any one piece of legislation. With the exception of the most important committees, the majority of each committee is composed of men of only ordinary ability.

3. It cramps debate.

4. It gives facilities for the exercise of underhand and even corrupt influences. In a committee the voice of each member is important and one may be corruptly influenced without much danger of exposure.

5. It reduces responsibility. "In England if a bad act is passed or a good bill rejected, the blame falls primarily upon the ministry in power whose command of the majority would have enabled them to defeat it, next upon the party which supported the ministry; then upon the individual members who are officially recorded to have 'backed' it and voted for it in the House. . . . But in the United States the ministry cannot be blamed for the Cabinet officers do not sit in Congress; the House cannot be blamed, because it has only followed the decision of its committee; the committee may be an obscure body, whose members may be too insignificant to be worth blaming."[1]

The merits of the committee system are equally conspicuous and have not failed to attract the attention of Mr. Bryce. The chief advantages are as follows:

1. It enables Congress to deal with more measures. Worthless bills are easily killed in committee, and an

[1] Bryce, "American Commonwealth," Vol. I, p. 161.

immense saving of time results. Congress could not consider one-tenth of the bills presented.

2. The committee system permits evidence to be taken. Committees frequently permit friends and enemies of a bill to present arguments.

3. It permits Congress to investigate the conduct of the executive departments. The conduct of any executive department may be investigated by a committee.

4. It gives members work to do. Every member of Congress is appointed on one or more committees. Men of keen business ability may make their influence felt in committee, though they may possess no qualifications for speaking in a large assembly.

5. It offers a needed means of coöperation between executive and legislative departments.

Heads of departments may appear for that purpose before committees.

Committee of the Whole. — One committee, much employed in the House, is the "Committee of the Whole." This is really a method whereby greater freedom of debate is permitted in the House. When the House goes into Committee of the Whole, the Speaker leaves the chair, after having appointed some other member to preside.

The presiding officer of the Committee of the Whole cannot compel any member to attend nor can he maintain order by force. Great freedom of debate is permitted in Committee of the Whole, and some of the most notable speeches have been delivered when the House has been thus organized. When the Committee has finished its business it rises and reports to the House, which may act on the report of the Committee of the Whole as it sees fit. The rules of the House require that bills relating to

the levying of taxes and the appropriation of money must be considered in Committee of the Whole.

The Making of a Law. — A proposed law is known as a bill. Bills may be introduced in either house, except that revenue bills must be introduced in the House of Representatives. The introduction of a bill is a very simple matter; the bill is simply placed upon the desk of the presiding officer or Clerk, and after being read by title is referred to an appropriate committee. Should the bill be reported by the committee, it is read a second time and placed upon the "calendar." This does not guarantee that the bill will ever be acted upon, as bills are not taken from the calendar in order.

When a bill is taken from the calendar it is read a third time and may be debated. In the House there is ordinarily little chance for debate as the Speaker usually recognizes only those who have previously obtained his consent, or the consent of the chairman of the committee which reported the bill, and debate may be closed at any time by having a member of the majority move the "previous question," which, if carried, compels an immediate vote.

In the Senate debate is more encouraged. The Vice-President exercises no such authority as the Speaker, and debate is not so limited by the rules. In taking a vote, the usual method is for the presiding officer to call for those in favor to say "Aye" and then for those opposed to say "No." The decision is given in favor of the side that has apparently the largest number of supporters. If the vote be in doubt, or a member requests it, a rising vote is taken. When the decision is still doubtful, or if demanded by one-fifth of a quorum, the Clerk calls the list of members, and

the vote of each is recorded. In the last manner of voting "pairs" are permitted, which means that members who enter into such an agreement shall be recorded as voting upon opposite sides whether present or not. A bill having passed one house, receives the signature of the presiding officer and is sent to the other house. Here it goes through the same process again. The second house may pass, amend, or reject a bill. In case a bill is amended it must again pass the house in which it originated. Should the amendment not be satisfactory, the two houses appoint a joint conference committee, which endeavors to arrive at a compromise. A bill having passed both houses, is sent to the President with the signatures of the presiding officers of both houses attached. Should the President approve the bill it becomes a law to take effect as provided. A bill disapproved by the President becomes a law if repassed by a two-thirds vote of Senate and House.

Filibustering. — In order to prevent legislation on some matter of great importance, the minority may resort to obstructive tactics, commonly called "filibustering." By calling for the ayes and noes, by making motions to adjourn, by points of order, by amendments, etc., it has sometimes been possible to prevent action or to weary the majority until it will accept a compromise. In the House, the Speaker, by refusing to recognize a member or by refusing to entertain a motion which he considers to have been made merely for the purpose of delaying action, may discourage filibustering. Prolonged debate is cut off in the House by moving the previous question. In the Fifty-First Congress, the minority attempted to delay action by refusing to vote when the roll was called, and less than a

quorum having voted, the point of order would be raised that there was "no quorum."

Speaker Reed resorted to "counting a quorum," by ordering the Clerk to count as present those members who were in their seats, but had not voted. This precedent has since been followed.

In the Senate, filibustering is possible by means of long speeches. On the Federal Elections Bill of 1890–1891, twenty-five long speeches were delivered by members of the minority party and they announced their ability and intention to talk indefinitely. The majority of the Senate usually wins in the end by all-night sessions, the members relieving one another in attendance.

Congressional Publications. — All speeches delivered in Congress are published in full in the *Congressional Record*, a paper published daily during sessions of Congress. Oftentimes the *Congressional Record* contains a long speech which was actually never delivered, the member having made a few remarks and obtained *leave to print* the entire speech. Reprints from the *Congressional Record* may be obtained by members and are extensively circulated among their constituents. A bi-weekly *Journal* gives a summary of all bills introduced and all votes.

QUESTIONS ON THE TEXT

1. Explain why the Constitution provides that the term of a member of the House of Representatives shall be shorter than the term of a senator.

2. One-third of the members of the Senate are chosen once in two years. Give reasons for the gradual change in membership.

3. Mention two respects in which the government of the United States and that of Great Britain agree.

4. How does the organization of the Senate differ from that of the House of Representatives.

5. Show the importance of the office of Speaker of the House.

6. Criticise the committee system of Congress.

7. Show briefly how a United States law is made.

QUESTIONS SUGGESTED BY THE TEXT

1. What are the advantages and disadvantages of a Congress composed of two houses?

2. It is a custom that Representatives should reside in the districts which they represent. Show the advantages and disadvantages of this custom and compare with the English practice. Bryce, "American Commonwealth," Vol. I, Chap. XIX.

3. Should Senators be elected by popular vote? Bryce, "American Commonwealth," Vol. I, Chap. XI.

4. Name six of the most famous senators and representatives of the current Congress and tell for what each one is noted.

5. Does the individual voter of New York exercise as great an influence on Congress as the voter of Mississippi?

REFERENCES

Hart, "Actual Government," Chaps. XIII, XIV.
Hart, "Practical Essays," No. IX.
Woodburn, "American Republic," Chaps. IV, V.
Bryce, "American Commonwealth," Vol. I, Chaps. X–XXII.
Wilson, "Congressional Government."
Wilson, "The State," pp. 546–555.
Follet, "The Speaker of the House," Chaps. IV–IX.
McConachie, "Congressional Committees."
Ford, "The Rise and Growth of American Politics," Chap. XX.

CHAPTER XVII

THE POWERS OF CONGRESS

Powers Granted to Congress. — The Constitution of the United States enumerates the powers which are granted to Congress, those which are denied Congress, those denied the states, and those which are denied both Congress and the states. The Tenth Amendment declares "that powers not delegated to the United States by the Constitution nor prohibited by it to the states, are reserved to the states respectively, or to the people." Certain powers, such as the power of taxation, may be exercised by both states and nation. Such powers are known as concurrent powers. In case of conflict of authority, the Supreme Court has held that the state government must yield to the nation. The following powers are specifically granted [1] to Congress:

1. To lay and collect taxes, duties, imports, and excises, to pay the debts and provide for the common defense and *general welfare* of the United States, but all duties, imposts, and excises shall be uniform throughout the United States.

2. To borrow money.

3. To regulate commerce with foreign nations, among the several states, and with Indian tribes.

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures.

[1] Const. Art. I, Sec. 8.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post offices and post roads.

8. To promote the progress of science and the useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and inventions.

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies, but no appropriation of money to that use shall be made for a longer period than two years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States.

17. To govern the District of Columbia.

18. To make all laws which shall be *necessary and proper* for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States.

Limitations upon the Authority of Congress.[1] — The Constitution limits the authority of Congress as follows:

1. The privilege of the writ of habeas corpus shall not be suspended except when in cases of rebellion or invasion the public safety may require.
2. Direct taxes must not be laid unless in proportion to the population of the states.
3. No preference shall be given to the ports of one state over the ports of another.
4. No taxes shall be levied on exports.
5. The first eight amendments, known as the Bill of Rights, prohibit Congress from interfering with certain civil and personal rights of citizens.

Limitations upon the Powers of Congress and of the States.[2] — Neither Congress nor the state authorities may pass bills of attainder or ex post facto laws or grant titles of nobility. Nor may slavery legally exist within the United States or any place subject to its jurisdiction.

Exclusive Powers of Each House of Congress. — The House of Representatives is granted the following exclusive powers:

1. To initiate revenue bills.
2. To present articles of impeachment.
3. To elect a President in case the Electoral College is unable to elect.

The Senate has the following exclusive powers:

1. To approve or reject the President's nomination of men for certain Federal offices.

[1] Const. Art. I, Sec. 9.

[2] Const. Art. I, Sec. 9, 10.

2. To approve or reject treaties with foreign powers. For the approval of a treaty a two-thirds vote is required.

In acting on the President's nominations for office and on treaties, the Senate sits in executive, or secret, session, a survival of the early days of the Republic when all Senate sessions were secret.

3. The Senate has exclusive power to try impeachments of the President, Vice-President, and civil (not military or naval) officers of the United States. This judicial function is similar to that exercised by the English House of Lords.

After articles of impeachment have been presented by the House of Representatives, the Senate resolves itself into a court, over which the Vice-President, or the President *pro tem* of the Senate, presides except when the President of the United States is on trial, in which case the Chief-Justice of the United States presides.

All the procedure of a regular court is employed, and the accused is given every chance to present his side of the case, both personally and by attorney. A two-thirds vote is required for conviction. Should the impeachment succeed, it effects the removal of the defendant from office and disqualifies him from holding any office in the gift of the United States. There have been only eight impeachment trials before the Senate and only two of the eight have resulted in convictions. Judge Pickering, a Federal District Judge of New Hampshire, was convicted in 1803 on the charge of making decisions contrary to law and of drunkenness and profanity on the bench. Judge Humphries, a Federal District Judge of Tennessee, was impeached in 1862 for accepting a judicial office under the Confederate government, and was convicted.

The most famous impeachment trial was that of President Johnson in 1868. The President was accused of violating certain Reconstruction Acts of Congress. The impeachment fortunately failed by one vote.

QUESTIONS ON THE TEXT

1. Enumerate the powers granted exclusively to Congress.
2. What powers are denied Congress?
3. What powers are denied both Congress and the states?
4. State the exclusive powers which are given respectively to the Senate and the House of Representatives.
5. Describe the method followed in impeachment trials.

QUESTIONS SUGGESTED BY THE TEXT

1. What advantage is there in the requirement that all revenue bills shall originate in the House of Representatives?
2. Under what Constitutional authority might Congress vote to acquire and operate a railroad?
3. Why does the Constitution permit the Senate to sit in executive session?
4. Would it be an improvement to permit the passage of measures over the veto of a President by a simple majority vote of both houses?
5. Was it a misfortune that President Johnson escaped conviction in the impeachment trial? What effect might his conviction have had on the office of President?

CHAPTER XVIII

THE RELATION OF CONGRESS TO COMMERCE

Commercial Powers of Congress. — Congress is granted authority "to regulate commerce with foreign nations and among the several states, and with the Indian tribes."[1] This authority is limited by two clauses[2] of the Constitution, one of which prohibits any taxation upon exports from any state, and the other provides that rates of taxation shall be uniform throughout the United States. Under the authority conferred by the Constitution, Congress has aided commerce by the erection and maintenance of lighthouses, life saving stations, improving rivers and harbors, and in many other similar ways.

Commercial Treaties. — Commercial treaties are made by Congress for the purpose of aiding the foreign commerce of the United States. Such treaties exist between the United States and all the commercial powers. Treaties of reciprocity have been especially prominent of recent years. By the terms of such a treaty, the United States permits certain commodities to be imported free of customs duty, or at a low rate, from a country which grants similar privileges to imports from the United States. The failure of the Senate to ratify recent reciprocity treaties will doubtless only temporarily hinder the wide application of this principle.

[1] Art. I, Sec. 8, Cl. 3.

[2] Art. I, Sec. 9, Cl. 5. Art. I, Sec. 9, Cl. 6.

The Panama Canal. — In accordance with the terms of a treaty between the United States and the Republic of Panama, exchanged February 26, 1904, the Republic of Panama granted to the United States the possession and control of a strip of land five miles wide on each side of the proposed canal. The United States paid the old Panama Canal Company $40,000,000, and paid $10,000,000 to Panama, in addition to which the United States is to pay Panama $250,000 annually, beginning nine years after the date of ratification of the treaty. The War Department, through the Panama Canal Commission, is charged with the supervision and construction of the canal and the government of the canal strip. By the terms of the treaty, the United States guarantees the independence of Panama, and guarantees the neutrality of the canal. Work is now being prosecuted on the canal, which promises to be the greatest aid to international commerce since the completion of the Suez Canal, and only second in importance to the transcontinental railroads in reference to American commerce.

American Shipping. — In a number of ways Congress has sought to encourage American shipping. By an act of 1793, which is still in force, foreign vessels are prohibited from engaging in the coasting trade of the United States, and the dependencies of the United States, by a recent decision of the Supreme Court, are included in this prohibition. American ships are also favored by discriminating tonnage duties; foreign vessels are obliged to pay twice as heavy tonnage charges as American ships. In addition to these favors, Congress has passed an act to the effect that duties paid on ship-building material may be remitted

if ships are used in the foreign, or Atlantic and Pacific, trade of the United States.

In order to secure the above advantages, as well as the protection of the United States in any part of the world, vessels must be registered in the United States, and in order to obtain American registry, a vessel must be built within the United States, and must belong wholly to a citizen or citizens of the United States, and the higher officers of the ship must not be subjects of any foreign state.[1]

The total tonnage of American vessels in 1800 amounted to 971,830 tons, two-thirds of which was engaged in foreign commerce. In 1860, the total tonnage of American shipping amounted to 5,821,642 tons, of which almost one-half was engaged in the foreign trade; but in 1903, though the total tonnage had increased to 7,990,043, the portion engaged in foreign trade was only 888,776 tons.

Less than one-tenth of our imports and exports are now carried in American ships. The chief reason for the decline of our foreign shipping has been because of the change from wooden ships, which could be built more cheaply in the United States than elsewhere in the world, to ships of iron and steel, which can be built in foreign ship-yards cheaper than in American yards. Two remedies are proposed in order to restore American shipping engaged in foreign trade. The first one is to abolish the restriction against foreign built ships receiving American registration, and to abolish the tariff on ship building materials. The other plan is to grant subsidies to American ships engaged in foreign trade.

[1] In 1892 a special act of Congress authorized the American registration of the "New York" and "Paris," two foreign-built steamships.

Interstate Commerce. — The states have control over commerce which originates and ends within the boundaries of the respective states, but Congress has control over commerce extending beyond the limits of the state in which it originates.

Congress has control over rivers which serve as highways for commerce between two states or with a foreign country. A river on the boundary between the United States and a foreign country is regarded as belonging to the United States from American soil to the middle of the river.

Until the middle of the nineteenth century, the chief aid which Congress gave to interstate commerce was by improving rivers and harbors, and by aiding the construction of wagon roads and canals. From 1850–1870 the United States granted millions of dollars and millions of acres of land in order to aid railroad construction in the West and South.

Railroad Consolidation and Resulting Problems. — The earliest railroads were local affairs, but between 1850 and 1860 short lines began to be consolidated. Their consolidation was not only beneficial on account of the economy in operating expenses, but was an undoubted benefit to travelers and shippers of goods. Competition became so fierce as to result in "railroad wars," during which rates were often below the cost of rendering the service. Soon railroad managers saw the folly of such competition and entered into pooling agreements whereby rates were fixed and profits divided between the roads. Discrimination between individuals and places was also common. The former discrimination consisted in making lower rates to

one individual than to another, or by giving to one individual superior facilities. Discrimination between places consisted very commonly in giving lower rates to one city than those charged to another place similarly situated. In order to remedy these, and other railroad abuses, Congress passed the Interstate Commerce Act, in 1887.

The Interstate Commerce Commission and its Powers. — The Interstate Commerce Commission consists of five members appointed by the President with the consent of the Senate. The Commission may receive complaints and summon witnesses, and may render decisions relating to rates and other matters placed under its supervision by the Interstate Commerce Law. In order to enforce the decisions of the Commission the ordinary courts of law must however be invoked, and this has greatly injured the effectiveness of the Commission. The Commission, as has been said, has supervision over the Interstate Commerce Law, which, among other provisions, prohibits pooling agreements, makes discrimination unlawful against persons or places, and provides that rates shall be uniform, and must be published and posted so that they may be freely consulted. Railroad abuses have been much lessened since the enactment of the law, but the Commission has justly complained that its powers are not sufficient to properly enforce the law.[1]

Anti-Trust Laws. — Trusts are organized for the sake of doing away with competition and increasing profits. A trust may be formed by competing companies placing their stock in the hands of trustees who shall manage the

[1] Seventh Report Interstate Commerce Commission, p. 6.

business of the various corporations. Such combinations are declared illegal by the laws of various states, and by the Sherman Anti-Trust Law passed by Congress in 1890. This act of 1890, has been held by the courts to apply exclusively to commerce and not to manufactures. The anti-trust laws have not had much influence. The form of trusts has been changed; in some cases one corporation has bought out the other parties to a trust, and in other cases two or more corporations, each owned by the same persons, have succeeded to the trust.

An act of 1903 empowers the Commissioner of Corporations of the Department of Commerce and Labor, to investigate the organization, conduct, and management of any corporation engaged in interstate business not subject to the Interstate Commerce Commission, and directs him to furnish the information so obtained to the President, after which the information, or as much of it as the President may direct, shall be made public. The Commissioner may be directed by Congress or the President to begin an investigation.

QUESTIONS ON THE TEXT

1. In what ways has Congress directly aided commerce.
2. What advantages would result to the United States from the opening of the Panama Canal?
3. What has been the cause of the decline in American shipping engaged in foreign commerce?
4. Why was the Interstate Commerce Commission created? What are its powers?
5. Describe the duties of the Commissioner of Corporations.

QUESTIONS SUGGESTED BY THE TEXT

1. What will be the effect of the opening of the Panama Canal upon the railroads of the United States?

2. What effect will the opening of the Panama Canal have upon the foreign commerce of New York and San Francisco?

3. Should that part of the merchant marine of the United States which is engaged in foreign commerce be aided by subsidies?

4. Should Congress give the Interstate Commerce Commission authority to fix railroad rates?

5. Should the United States own and operate the railroads?

6. Are the "trusts" an injury to commerce?

7. What clause of the Constitution gives Congress the right to construct the Panama Canal?

REFERENCES

On the Isthmian Canal: Curtis, "The United States and Foreign Powers," 107–118; Hart, "Foundations of American Foreign Policy," 36, 235, 238, 76–77, 221, 237; Schierbrand, "America, Asia, and the Pacific"; "Construction of Canal," *Outlook*, 78, 230–235.

On the Merchant Marine and Subsidies: Hadley, "Economics," 442–443; Bates, "An American Marine"; *Outlook*, 67, 98–9; *Outlook*, 67, 336–8; *North American Review*, 172, 113–121, 285–290; Bibliography in List of Books on Marine Subsidies, published by Library of Congress.

On the Interstate Commerce Commission: Snyder, "Interstate Commerce Act and Anti-trust Laws"; "Reports of Interstate Commerce Commission"; *Forum*, 33, 143–150; *North American Review*, 174, 46–58.

On Trusts and Monopolies: Ely, "Monopolies and Trusts"; Ely, "Problems of To-day"; Von Halle, "Trusts"; Jenks, "The Trust Problem."

CHAPTER XIX

FINANCIAL AND MONETARY SYSTEMS OF THE UNITED STATES

Public Finance. — Public finance deals with the revenues and expenses of a government. Public finance differs in several particulars from private finance. One of the most apparent differences is that public income should be determined by public expenditures, while the reverse is true in private finance. A surplus at the end of the year is a most desirable thing for a private person, but it is not so desirable for a city or state, as it generally means that more has been taken from the pockets of the people than was necessary, and a surplus is moreover an invitation for reckless expenditures. An estimate of the probable revenues and expenditures of a government is prepared in advance of the fiscal term by the appropriate financial officers for presentation to the legislative body that must pass on the matter. This estimate is called a *budget*.

Public Expenditures. — National and local expenditures have steadily increased during the last half century, but state expenses are now relatively less important than they were a half century ago. Each one of the largest cities of the United States has a larger budget than the state in which it is located, and national expenditures have increased many times in the last few decades. This increase is due both to increased wealth and the additional functions that national and local governments have assumed, while the decline in state expenses has been caused

by the substitution of private railroads for state canals and other state internal improvements.

Public Revenues. — Public revenues are obtained from a variety of sources. Public industries and revenues from domains serve as an important source of revenue to many European states and cities. Among the most lucrative domains have been forests, mines, and agricultural lands. Public industries such as water works, lighting plants, postal service, telegraph service, street railroads, and steam railroads often bring a substantial revenue to the government. Special assessments are often levied upon land adjoining a projected improvement, for the purpose of paying part or all of the expenses of opening new streets, putting in sewers, constructing parks, or for such other purpose as will raise the value of land in the immediate neighborhood. For extraordinary purposes, or for anticipating the receipt of taxes, public loans are extensively resorted to by national, state, and local governments.

However, taxation is by far the most important source of revenue. A tax may be defined as a compulsory payment to the government for general public purposes.

Direct and Indirect Taxation. — A direct tax is one which is levied upon the person who must finally pay it; an indirect tax is collected from the possessor of the article taxed, but may be shifted by raising the price of the article and thus forcing the burden upon the final consumer. Income taxes, poll taxes, inheritance taxes, and taxes on land are examples of direct taxes; customs duties, excise taxes, and the like, are examples of indirect taxes.

Direct taxation has certain advantages over indirect taxation. Indirect taxation does not place the burden of a tax upon the people in proportion to their ability to pay. A tax on sugar or coffee is really a greater burden upon the poor than upon the rich, as such commodities are not purchased by consumers in proportion to their wealth. There is, moreover, a political objection to indirect taxation. It is a well-known fact that when people feel the weight of taxation, they are much more inclined to watch the action of legislative bodies and be interested in the character of the men who represent them in legislative halls than when they do not realize the amount of their contributions to government.

A third disadvantage of indirect taxation is of a financial nature. Extraordinary expenses, such as those made necessary by war, cannot best be met by indirect taxation. Increasing the tax results in a smaller consumption of the articles upon which the tax is placed, and also the tax will not reach its highest productiveness for several years. A direct tax does not possess this disadvantage, and is therefore known as a more *elastic* tax. However, indirect taxation enables a person to pay taxes in small amounts, as a few cents are added to the price when buying sugar, clothing, tobacco, or such commodities, and the tax is therefore very productive of revenue. Indirect taxation is employed by every national government; probably not one of them could raise sufficient revenue without resorting to this method of taxation.

Federal Taxation in the United States. — The government of the United States at the present time employs only indirect taxation. Congress is given power to lay and

collect taxes, imposts, and excises, but this power is limited by two other constitutional provisions:

> "No tax or duty shall be laid upon articles exported from the United States" and "No capitation or other direct tax shall be laid unless in proportion to the census or enumeration herein before directed to be taken."

This latter provision practically prevents the United States from laying any direct taxes, as such taxes would be unfair since the population of the states is not at all in proportion to their wealth.

History of Federal Direct Taxation. — The United States has resorted to apportioned direct taxes three times, but with unsatisfactory results. Taxes on incomes were levied during the Civil War. The Income Tax of 1862, was not apportioned among the states; Congress treated income taxes as indirect, in this respect following decisions of the courts, which ruled that direct taxes were only those upon persons and lands. The Income Tax of 1862 exempted incomes below $600, and taxed those in excess of that figure at progressive rates; incomes between $600 and $5,000 were taxed at a 5 per cent rate; those from $5,000 to $10,000 at 7½ per cent; incomes above $10,000 at 10 per cent. The tax yielded $72,982,000 in 1866, but after that time a change in the law exempted incomes of less than $2,000 and lowered the rate; the receipts fell off, and the income tax was abolished in 1872. In 1894 the necessity of providing additional revenue caused Congress to institute another income tax. This tax provided that all incomes of over $4,000 should be taxed at the rate of 2 per cent on the excess above $4,000, but before the tax

went into operation it was declared unconstitutional by the Supreme Court of the United States on the ground that in some of its provisions it was a direct tax, and that it had not been apportioned among the states in proportion to their population.

Federal Taxes on Imports. — The United States government derives most of its income from import duties and excises. Congress levies taxes upon articles imported into the country, and these taxes are collected at customs houses situated at all ports of entry. Customs duties are of two kinds, *specific* and *ad valorem;* specific duties are assessed on units of measures, such as a pound, yard, or gallon; ad valorem duties are levied in proportion to value. Each method has its disadvantages: specific duties often result in commodities of low value being taxed as heavily as more valuable commodities, and ad valorem duties cannot be fairly assessed unless experts in all lines of goods are stationed at all customs houses, which, of course, cannot be done. In the United States, a combination of specific and ad valorem duties is often employed, the same article being taxed according to a unit of measure and also on its value.

The schedule of import taxes is called a tariff. The tariff may be so arranged that heavy taxes fall upon articles which are manufactured in the United States, or may be manufactured here. Such a tariff is called a protective tariff, since it raises prices and hence stimulates the production in the United States of the articles taxed. A tariff which is levied upon articles not manufactured in the United States, or in such a manner as not materially to raise prices, is called a "tariff for revenue only." The

tariff question has been one of the chief political issues in the history of the United States. Since 1860 we have had a high protective tariff.

Excise Taxes. — Excise taxes are those levied upon commodities produced within a country. This form of taxation has been extensively used by the United States. The first excise tax was levied in 1791 upon distilled spirits, as a part of the plan of Congress for paying the debt incurred during the Revolutionary War. The tax was unpopular, and was repealed in 1802. The War of 1812 caused excise taxes to be laid upon distilled spirits and sugar, but these war taxes were repealed in 1817. Until the outbreak of the Civil War no further excise taxes were levied, but the extraordinary expenses made necessary by the Civil War compelled a resort to excise taxation on an enormous scale. The words of Sydney Smith employed forty years before, have been aptly applied[1] to the excise taxes of the Civil War period:

> "Taxes upon every article which enters into the mouth, or covers the back, or is placed under the foot; taxes upon everything that is pleasant to see, hear, feel, smell, or taste; taxes upon warmth, light, and locomotion; taxes on everything on earth, and the waters under the earth; on everything that comes from abroad, or is grown at home; taxes on raw materials, taxes on every fresh value that is added to it by the industry of man; taxes on the sauce which pampers man's appetite, and the drug, which restores him to health; on the ermine which decorates the judge, and the rope which hangs the criminal; on the poor man's

[1] Ford in Lalor's Cyclopaedia.

salt and the rich man's spice; on the brass nails of the coffin and the ribands of the bride."

Most of the excise taxes were abolished after the war, but on account of the increased expenses of the government, owing chiefly to pensions and the public debt, excise taxes on spirits, malt liquors, and tobacco were retained and became a very important item in the federal financial system.

The Spanish War resulted in additional excise taxes being levied upon a number of commodities, but most of these were repealed shortly after the war closed.

State and Local Taxation. — State and local governments chiefly employ direct taxation; this is not due to any constitutional necessity, but because the federal government has pretty thoroughly occupied the domain of indirect taxation. The states differ in their systems of taxation; among the usual taxes are those upon personal property, real estate, corporations, franchises, and the like. The local authorities assess and collect most of the taxes for local and state purposes, and forward the state tax to the state treasury.

Taxes on Property. — In all of the states there is some kind of a property tax. Property consists of two kinds: real property and personal property. Real property includes land and whatever is attached to it, or made part of it, such as trees, water, minerals, and houses or other permanent structures. Personal property consists of a variety of movable goods, such as clothing, jewelry, machinery, pictures, books, carriages, merchandise, money, stocks, bonds, mortgages, bank and other credits.

Much personal property can be easily concealed, and most of it cannot be correctly valued by the tax assessors. For this reason the general tax on personal property is evaded by all except the scrupulously honest, and a general personal property tax is, therefore, a tax on honesty. Taxes on real estate cannot be evaded. However, another difficulty appears when real estate is taxed both for local and state purposes. Each local assessor endeavors to keep down the valuation in his district in order that his neighbors may pay a small state tax. There is thus a competition among local assessors to reduce local valuation, notwithstanding the fact that state laws require property to be assessed at its actual value. To remedy undervaluations many states have state boards of equalization, but the task is beyond the ability of any board. Men who know the value of real estate on Manhattan Island are not qualified to determine values of agricultural or forest lands. The conclusion of most economists is that the personal property tax should be abolished and real estate should be taxed for local purposes only.

Poll Taxes. — Several of the states have poll or capitation taxes. These taxes, at the rate of a dollar or two dollars a person, are levied annually upon all males between certain ages. A poll tax is one of the most unfair of taxes, as it falls equally upon all persons without regard to their wealth. In some states the poll tax must be paid as a condition precedent to voting, but in such states the tax is generally paid by the political party to which the voter belongs.

Corporation Taxes. — In a number of states a tax is levied on the capital stock or gross earnings of all corpora-

tions doing business within these states. Railroad, insurance, telegraph, and express companies, are often subject to a special state tax.

Franchise Taxes. — Quasi-public services such as water and gas supply and transportation, are furnished in our cities by corporations which have received that privilege by virtue of franchises which they hold. To tax these franchises as a valuable part of the property of the corporations, is not uncommon. This is an especially proper means of gaining a revenue, if the franchise was not paid for when it was obtained.

Inheritance and Income Taxes. — A number of states levy a tax on inheritances, sometimes higher on collateral than direct inheritances. This tax cannot be evaded, and is easily collected. With a small inheritance exempted, there is no unfairness in such a tax.

Income taxes are more difficult to assess, but they have been successfully employed by most foreign governments, and have been used by a number of our states. It is sometimes said that the rate per cent of the income tax should increase with the size of incomes, and this would be fair enough were it not for the fact that the progressive feature of the tax could easily be evaded by dividing an income between various members of a family.

Other Local Sources of Income. — Large sums are collected by the sale of licenses, which give to the holder permission to sell spirituous and malt liquors. A considerable amount of revenue for local purposes is raised by licenses on billiard tables, bowling alleys, shooting galleries,

and theatres. Usually auctioneers, peddlers, and draymen must procure licenses. Fines levied upon offenders by the courts produce some revenue.

Fees paid to the government for some special service rendered furnish considerable revenue. Fees sometimes are given to the officer who performs a service, but it has been found that both economy and good service are better secured by giving officers an adequate salary and turning all fees into the public treasury.

Exemptions from Taxation. — Governmental property, whether federal, state or local, is exempt from taxation. Property devoted exclusively to educational, religious, or benevolent purposes, is ordinarily exempt from taxation. In many states a small amount of personal property is exempt, and usually savings-bank accounts are exempt.

Public Debts. — Congress is given authority by the Constitution "to borrow money on the credit of the United States." The public debt of the United States has been incurred chiefly as a result of war. In times of war, necessary revenue cannot always be gained from taxation, and so a country is obliged to borrow money, giving the lender a promissory note or bond. These bonds bear a certain rate of interest, and are payable at some definite date. Sometimes the government is unable, or thinks it disadvantageous, to redeem bonds when they fall due; in this case the government may issue a new set of bonds, and with the proceeds of their sale redeem the old ones. Often refunding, as this operation is called, is accomplished so that the interest on the public debt is much lowered. The excellent credit of the United States is shown by the fact

that more than half of its interest bearing debt has been placed at a rate of two per cent per annum.

Local Debts. — Since the building of railroads checked state expenditures for roads and canals, the states have not been great borrowers of money, but the cities have more than taken the place which the states formerly occupied. City debts have grown to great magnitude and are constantly increasing. Improvements are planned for generations in advance, and are paid for from the proceeds of the sale of city bonds; this is good policy, since a great work like the New York aqueduct or the Croton dam, is built for the benefit of the future as well as the present generation, and it is entirely proper that a portion of the burden of payment should fall upon future generations. Extraordinary expenses, such as the building of bridges, water works, sewers, etc., may appropriately be met by the sale of bonds.

MONETARY SYSTEM OF THE UNITED STATES

Metallic Money of the United States. — In coining money a government may adopt one of two policies. It may coin all the bullion of a certain metal that is presented at the mints, which would be free coinage of that metal, or the government may purchase a limited amount of metal for coinage purposes. When the mint was opened in 1792 Congress decided upon free coinage of gold and silver at a ratio of fifteen grains of silver for one grain of gold. That is, a gold dollar weighed in fine metal one-fifteenth the amount of a silver dollar. But though we legally had bimetallism, that is, free coinage of both gold and silver, actually gold went out of circulation and there was

silver monometallism. The reason for this was that, in the markets of the world, the gold in a gold dollar had more value as metal than it had as coin, and no one would take gold to the mint; moreover, persons who possessed gold coins could get more for them as gold than their coin value, and so they were withdrawn from circulation. In 1834 and in 1837 Congress changed the ratio to 15.988 to 1. Silver now went out of circulation, so in 1873 Congress dropped the silver dollar from the list of coins. Shortly after this time the production of silver greatly increased, and there was an agitation in favor of establishing "bimetallism"; the friends of the movement were confident of the ability of the nation to maintain the two metals at a value ratio of 16 to 1, but the opponents saw that such action would result in silver monometallism, as gold would be more valuable as a metal than as money. A compromise was the result. Congress, in 1878, passed the Bland-Allison Act directing the Secretary of the Treasury to purchase in the market $2,000,000, to $4,000,000 worth of silver every month and coin it into silver dollars. The advocates of silver were not satisfied and again a compromise bill, known as the Sherman Act, was passed in 1890, and the Bland-Allison Act was repealed. By the terms of the Sherman Act the Secretary of the Treasury was directed to purchase every month four and one-half million ounces of silver, or as much thereof as might be offered. This silver was to be paid for at the market price, but at a rate not greater than $1.29 an ounce. To pay for this silver, paper money, known as Treasury Notes of 1890, was issued. Under the terms of this act two million ounces of silver were coined each month for one year, after that time only enough bullion was coined to redeem the Treasury Notes

that might be presented at the Treasury. So much silver, or notes based upon silver, was in circulation by 1893 that doubt was entertained in regard to the ability of the nation to keep gold in circulation. This, together with other causes, resulted in the financial crisis of 1893. President Cleveland called a special session of Congress, which met in the autumn of 1893 and repealed the purchase clause of the Sherman Act. Congress definitely abandoned all compromise with free silver, when in 1900 the gold dollar was made the monetary unit of the United States, and Congress authorized the Secretary of the Treasury to redeem greenbacks and silver notes with gold coin, selling bonds, if necessary, in order to keep up the gold supply. It also guaranteed that the outstanding silver dollars would be maintained at parity with gold.

Coins of the United States. — At the present time the following gold coins are issued from the mints of the United States; double eagle, eagle, half eagle, quarter eagle. The silver coins are one dollar, half-dollar, quarter-dollar and dime. Silver coins, except the dollar, and the 5 cent piece of nickel and the copper cent are "token coins," or change. The value of the metal in token coins is much less than the value of the coin, and such coins are issued in comparatively small quantities.

United States Paper Money. — Paper money usually consists of a promise of a government to pay the value of the note. The government may issue paper money for the sake of convenience to the public and to save wear of the metal. In such cases sufficient metallic money or bullion is kept in reserve to redeem all paper money that may

be presented. Paper money issued in this way is *convertible.* But often governments maintain no reserve to pay obligations and could not redeem notes if presented. Such paper money is *inconvertible.* The greenbacks of 1862 were promises to pay, but no time of payment was mentioned, and the United States actually did not offer to pay them until 1879; in the meantime they were inconvertible. Inconvertible paper money is almost sure to depreciate, and the history of the United States with such issues should prevent any future experiments with it. All paper money of the United States is now redeemable. For convenience and economy the United States deposits silver dollars in the treasury and in their place issues silver certificates of one, two, five, and ten dollars. Gold certificates in amounts from $20 to $10,000 are issued in like manner.

National Bank Notes. — The national banking system was established in 1863, largely for the purpose of affording a market for United States bonds. The present national bank laws provide:

1. That national banks must have a capital of not less than $25,000 and the stockholders are responsible to double the par value of their stock.

2. A certain proportion of the capital of every bank must be invested in United States bonds, which must be deposited in the treasury at Washington.

3. The banks may issue bank notes to an amount not exceeding the par value of the bonds, but additional security may be required in case the bonds fall below par.

4. The banks must deposit in the treasury an amount of money equal to five per cent of their outstanding circula-

tion. This sum is used for the purpose of redeeming any notes that may be presented at the treasury for that purpose.

5. National bank notes must be redeemed on demand in legal tender by the banks which issue them. The notes themselves are not legal tender, but are receivable for all taxes, except for import duties.

6. A reserve fund in lawful money must be maintained by each bank.

7. National banks are taxed one-half of one per cent on their outstanding circulation.

8. The administration of the national bank laws is intrusted to the Comptroller of the Currency. To him each bank must report its condition five times every year, and he may send examiners to inquire into the condition of the bank at any time.

National bank notes are absolutely safe. Even though the bank which issues them should fail, the bonds and reserve fund at Washington are more than sufficient to redeem the notes.

QUESTIONS ON THE TEXT

1. Compare public and private finance.
2. Account for the increase of United States and local expenses.
3. What are the principal sources of public revenue?
4. Compare direct and indirect taxes.
5. Why does the United States not employ direct taxation?
6. What is a "tariff for revenue only"?
7. Discuss the general property tax.
8. Define bimetallism.
9. Describe the National Banking System.

QUESTIONS SUGGESTED BY THE TEXT

1. Should the Constitution be so amended as to enable the United States to resort to direct taxation?

2. Would free trade be more beneficial to the people of the United States than protection?

3. Should savings bank accounts be exempt from taxation?

4. When may a government properly resort to borrowing money?

5. Consult a dictionary in regard to the meaning of "legal tender." Is there any advantage in making a certain kind of money legal tender?

REFERENCES

Any good recent work on Political Economy covers the subjects mentioned in this chapter. Ely, "Outlines of Economics," parts II and III, and Bullock, "Introduction to Economics," pp. 493–551, are especially recommended.

CHAPTER XX

MISCELLANEOUS POWERS OF CONGRESS

Citizenship. — The following persons are citizens of the United States:

1. All persons, regardless of sex, who were born in the United States and are not subject to any foreign power, Indians not taxed being excluded.

2. All persons naturalized according to law.

3. Children born in another country whose fathers are citizens of the United States, but the right of citizenship does not extend to children whose fathers have never resided in the United States.

4. All women married to citizens are given citizenship by a law of 1885.

5. Citizens of Hawaii are citizens of the United States as a result of annexation, but inhabitants of Porto Rico and the Philippines are not citizens of the United States until Congress organizes these islands as territories or admits them to the Union as states.

Aliens have many privileges within the United States; in many of the states aliens may even vote. The privileges of aliens are based upon favor, the privileges of citizens upon "long tradition amounting to an indefeasible right, on solemn limitations in the federal and state constitutions." Aliens may not hold office, nor, in many states, hold real estate unless they have declared their intention to become citizens. The protection of the United States extends to American citizens in foreign countries and upon the high seas. When in a foreign country a citizen of the United

States is, of course, subject to the laws of the foreign country, but he may claim and secure the protection of the United States in case of any violation of international law or treaty obligation.

Naturalization. — Naturalization is the process by which an alien becomes an American citizen. In order to become a citizen an alien must have resided within the United States for the five years preceding his admission to citizenship. Two years before his admission to citizenship he must appear before a court of record and declare his intention to become a citizen, and renounce allegiance to any foreign power. The clerk of the court then furnishes him with a copy of his declaration, which is often called his "first papers." Two years later he must appear again before a court and on oath or affirmation make another similar declaration, after which he may become a citizen. Should the applicant have been under eighteen years of age when he came to this country, the first declaration of intention may be omitted, and he may be admitted to citizenship after he is twenty-one years of age, if he has resided in the United States five years, including three years of his minority. Aliens of the age of twenty-one or more, who have enlisted in the armies of the United States may become citizens without previous declaration, if they can prove one year's residence. Alien seamen, who have declared intention to become citizens, may be naturalized after three years' service on American merchant ships.

Bankruptcy Laws. — According to the bankruptcy law of the United States, the property of an insolvent debtor

IMMIGRANT LANDING STATION, ELLIS ISLAND, N. Y.

may be seized and divided among his creditors; he is then released from any legal requirement to pay financial obligations incurred before the bankruptcy proceedings were initiated. The present bankruptcy law was passed in July, 1898. It distinguishes between voluntary and involuntary bankruptcy. Any person, corporations excluded, may become a voluntary bankrupt unless he has previously failed within six months. Creditors may force any persons, except laborers, farmers, and banks, into involuntary bankruptcy if they can prove insolvency in the courts.

Patent and Copyright Laws. — Patents, issued in the name of the United States and under seal of the Patent Office, secure to inventors the exclusive right to manufacture and sell any patented article for a period of seventeen years. Patents for designs may be issued for three and one-half years, seven years, or fourteen years.

Applications for patents must show the exact nature of the article or design, which must not be in common use or covered by a prior patent. Any person who has made a new invention or discovery, and who desires further time to perfect the same, may file a *caveat* in the Patent Office, and such caveat protects him for one year. Fees for patents are as follows: on filing each original application, $15; on issuing each original patent, $20; on filing each caveat, $10; on design cases, $10 for three and one-half years, $15 for seven years, and $30 for fourteen years. During 1903, 27,819 patents were issued. The receipts of the Patent Office for 1903 were $1,642,201, being $193,556 in excess of expenditures.

Copyrights are issued through the office of the Librarian of Congress. A copyright may be issued to the author,

inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, and of models or designs intended to be perfected as works of the fine arts. Copyrights are issued for an original term of twenty-eight years, which may be extended by a further term of fourteen years. During the life of the copyright, the person to whom it is issued has the exclusive right of printing and selling the article, and in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. Authors have the exclusive right to dramatize their books. A printed copy of the title of the book, map, chart, dramatic or musical composition, etc., or a description of the work of art must be delivered to the Librarian of Congress or deposited in the United States mails on or before the date of publication, and not later than the day of publication two complete copies of the best edition of each book or other article, must be delivered or sent to the office of the Librarian of Congress. The fee for recording each claim to copyright is fifty cents, and a further fee of fifty cents is required for a copy of the record. Until March 3, 1891, works of foreign authors might be "pirated," or printed in the United States without permission of the author, and without the author receiving any profits from their sale. The law of 1891 permits citizens of a foreign country to secure copyrights in the United States, provided citizens of the United States are given equal privileges in that country. As a result of this act, the United States has entered into copyright agreements with the leading countries of the world.

Military and Naval Powers of Congress. — Congress is given authority to declare war, grant letters of marque and reprisal, and enforce rules concerning captures on land and water; to raise and support armies, but no appropriation of money to that use shall be for a longer term than two years; to provide and maintain a navy; to make rules for the government and regulation of the land and naval forces.

The United States Army. — The founders of our government believed that large standing armies were a menace to liberty. It was their opinion that the regular army would be kept at its proper limit, by making it necessary to secure an appropriation for its maintenance as often as once in two years. Until 1898 the regular army in time of peace, did not exceed 27,000 enlisted men. An act of March 1, 1899 authorized the President to increase the regular army to 65,000 and enroll 35,000 volunteers. This act was limited to two years. In January, 1901, the maximum force of the army was fixed at 100,000 men and the minimum at 57,000 men. This is a very small number as compared to the armies of Europe.

General Staff of the Army. — On August 15, 1903, the system of military control of the army was reorganized in accordance with the General Staff Act of February 14, 1903. This act provided for a military Chief of Staff, and for his assistance a corps of forty-four officers was created. The duties of the General Staff are to prepare plans for the national defense, and for the mobilization of the military forces in time of war; to investigate and report upon all questions affecting the efficiency of the army and its prepa-

ration for military operations; to render professional aid and assistance to the Secretary of War, and to general officers and other superior commanders; and to perform other duties not assigned by law as may from time to time be prescribed by the President.

The Militia. — The regular army being too small to serve the needs of the country in a severe crisis, Congress is given authority[1] to call out and organize the militia. The militia consists of all able bodied male citizens of the United States, and those between the ages of eighteen and forty-five years who have declared their intention to become citizens.

A part of the militia is regularly organized in the states, under their own officers. This force is called the National Guard. The National Guard on October 1, 1904, numbered 8,805 officers and 107,132 enlisted men. The United States makes an annual appropriation for the assistance of the National Guard.

The United States Navy. — The isolation of the United States from the great military powers has always made it a wise policy to place great reliance upon the navy. The modern navy of the United States dates from 1883, since which time all our powerful ships of war have been constructed. The territory acquired as a result of the Spanish War made large additions to the navy necessary, and our navy is now surpassed in strength only by the navies of Great Britain and France, and is about equal to the navy of Germany.

Congress is given authority to supplement the regular

[1] Art. I, Sec. 8, Clauses 15 and 16.

navy in time of war by the use of privateers. Privateers are ships owned and operated by private persons, but commissioned by the government granting letters of "marque and reprisal." Privateers so licensed may seize the property of an enemy and dispose of it to the profit of their owners. Privateering is not in accordance with modern notions of morality, and it doubtless will never again be resorted to by the United States. In the Paris Congress of 1856 privateering was declared abolished by the great powers, but the United States did not assent because it was thought privateers might be necessary to us on account of our small navy. However, privateers have not been resorted to since that time.

In eighteen states there is a naval militia. These forces are under the direction of state officials and may be called into the national service in time of war. They are drilled especially for duty in harbor defense.

QUESTIONS ON THE TEXT

1. Who are citizens of the United States?
2. What privileges have citizens that cannot be claimed by aliens?
3. How may an alien become a citizen?
4. Describe the bankruptcy law of the United States.
5. What is a patent? How may a patent be obtained?
6. What effect had the Spanish War upon the navy and army of the United States?
7. What is the General Staff of the army?
8. Why do we need a strong navy, though a small army is sufficient?

QUESTIONS SUGGESTED BY THE TEXT

1. Is citizenship too easily acquired by aliens? What changes would you suggest in the naturalization laws?

2. Does a bankruptcy law accomplish a greater amount of good or evil?

3. What relation have our patent laws to monopolies? Are patents now granted for too long a period?

4. Show the wisdom of the founders of our government in requiring that an appropriation for the army must be made as often as once in every two years. Compare with the English Mutiny Act of 1689.

5. Compare the navy of the United States with the navies of the European powers and Japan. See "Statesman's Year Book" or newspaper almanacs.

REFERENCES

On Citizenship: Hart, "Actual Government," pp. 15–30; Brewer, "American Citizenship"; Willoughby, "American Citizenship," Chaps. I–VIII; Richman, article on Citizenship in *Political Science Quarterly*, Vol. V, pp. 104–123.

On Patents and Copyrights: Hart, "Actual Government," pp. 492–493; Ely, "Outlines of Economics," pp. 265–267.

On Army and Navy: Shaler, "United States," Vol. I, Chap. XI; Hart, "Actual Government," pp. 459–480; Annual Reports of the Secretary of War and the Secretary of the Navy.

CHAPTER XXI

THE FEDERAL JUDICIARY

Necessity of Federal Courts. — A system of Federal courts is necessary for several reasons:

1. There must be some court to interpret United States laws, otherwise these laws would be subject to conflicting interpretations by state courts.

2. Federal courts must interpret the Constitution and, since that document is the supreme law of the land, must determine the constitutionality of United States laws and treaties as well as of state constitutions and state laws. A law that has been declared unconstitutional is null and void.

3. Cases to which certain persons are parties could not with propriety be brought before state courts. Such cases include those in which ambassadors and other accredited representatives of foreign governments are concerned.

Jurisdiction of Federal Courts. — The jurisdiction of the Federal courts is prescribed in the Constitution. Two classes of cases may come before the United States courts: one of these classes is concerned with the nature of the questions involved; the other comes before the Federal courts because of the nature of the persons concerned.

> "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime juris-

> diction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects."[1]

The Eleventh Amendment. — The jurisdiction of the United States courts is limited by the Eleventh Amendment, which reads:

> "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

This amendment was the result of an action brought by one Chisholm, a citizen of North Carolina, against the state of Georgia, in 1793. The Supreme Court decided that a citizen of one state might make another state a defendant in an action brought in the Supreme Court. Intense excitement followed, as this was then thought to be incompatible with the dignity of a "sovereign" state. The chief effect of this amendment has been to enable a state to repudiate its debts.

The Supreme Court. — The chief court of the United States is the Supreme Court. The Constitution does not name the number of judges who shall compose the court, but at present it consists of a chief justice and eight associate justices.

[1] Art. III, Sec. 2, Par. 1.

UNITED STATES SUP

ME COURT IN SESSION

"In all cases affecting ambassadors, other public ministers and consuls, and those to which a state shall be a party, the Supreme Court has original jurisdiction."

In other cases the Supreme Court has appellate jurisdiction, that is the authority to review a case already tried in another court and to render a decision.

The Supreme Court decides cases by a majority vote of the justices present. The Court begins its annual sessions on the second Monday in October, and usually adjourns in May. Daily sessions are held, except on Saturdays and Sundays, beginning at twelve o'clock M. in the chambers of the Court at the Capitol.

Inferior Federal Courts. — Congress in accordance with a constitutional provision (Art. III, Sec. 1), has established a number of inferior courts. These courts are district courts, circuit courts, circuit courts of appeal, and a court of claims.

District Courts. — The lowest regular United States courts are the district courts. Each state constitutes a judicial district and has a district court, except that the more populous states have two or more districts. Admiralty cases and most bankruptcy cases are tried in the district courts. A district judge presides over the court.

Circuit Courts. — The United States is divided into nine circuits for judicial purposes. A judge of the Supreme Court originally held court in each of the circuits, but now two or more judges are appointed for each circuit. Justices of the Supreme Court are supposed to attend at least

one term in every two years, but since 1869 they have only occasionally opened a session of the circuit courts. Cases involving the patent and copyright laws and the revenue laws are brought before circuit courts. Many civil and criminal cases may be brought before either district or circuit courts. A district judge may hold court in a circuit, and likewise a circuit judge may hold a district court. Circuit court cases are largely cases appealed from district courts, or cases transferred from state courts.

Circuit Courts of Appeal. — These courts, nine in number, were created in 1891 in order to relieve the Supreme Court, which was four years behind the docket. These courts have final jurisdiction in many cases, but there is an appeal to the Supreme Court in all cases involving the Federal Constitution and treaties. Each circuit court of appeals has three judges, two of whom are sufficient to hold court.

Court of Claims. — The Court of Claims consists of five judges. It holds sessions in Washington and has authority to settle claims of private persons against the United States. If a claim is found valid, the fact is certified to Congress, which then makes an appropriation to satisfy the claim.

Appointment of Federal Judges. — All Federal judges are appointed by the President subject to confirmation by the Senate. Their term of office is for life or during good behavior. The salaries of Federal judges are very small, when compared with the importance of the office and the remuneration received by leading lawyers. The Chief-Justice of the United States receives $13,000 a year, asso-

ciate justices of the Supreme Court receive a salary of $12,500 a year, circuit judges are paid $7,000 a year, and district judges $6,000.

In accordance with the terms of an act of 1869, any United States judge of ten years standing, who has reached the age of seventy years, may resign and continue to draw his full salary. A few judges have been retired by special act of Congress before reaching the age of seventy years. For misconduct, judges may be impeached in the same manner as other government officials.

Court Officers. — In each district there is a district-attorney, appointed by the President, whose duty it is to conduct cases to which the United States is a party in all the inferior United States courts, except the Court of Claims. A marshal in each district has duties similar to those of the county sheriff. United States Commissioners, appointed in each circuit by the circuit courts, assist both district and circuit judges by administering oaths, examining witnesses in certain cases, etc.

Relation between State and Federal Courts. — All of the states have their own courts, which interpret state laws, and in most cases their decisions are final. Cases may be transferred from state courts to United States courts if an interpretation of a Federal law of the Constitution is involved. A few cases may be brought before either the Federal or State courts.

There are four grades of law in the United States, and in case of conflict the lower must always give way to the higher. These grades are: (1) the United States Constitution; (2) United States treaties and laws; (3) state

constitutions; (4) state laws. In case of conflict between laws of equal grade, the last one passed annuls the others.

QUESTIONS ON THE TEXT

1. Describe the organization of the Supreme Court.
2. Mention the kinds of cases in which the Supreme Court has original jurisdiction.
3. Why is it necessary that we should have United States courts?
4. Describe the inferior United States courts.
5. What is the relation between the United States courts and state courts?
6. If the courts declare a statute to be wholly or in part unconstitutional, what is the effect of such a declaration?

QUESTIONS SUGGESTED BY THE TEXT

1. Why should judges be appointed for life?
2. Show the influence of America's greatest jurist, Chief-Justice Marshall, on American law and history. Magruder, "John Marshall," Chap. X. Thayer, "John Marshall," Chaps. III–V.
3. Why was the Eleventh Amendment passed? Would it be possible for such an amendment to be passed at the present time?
4. Who is the Chief-Justice of the United States?
5. Name some act of Congress that the Supreme Court has declared unconstitutional and give reasons for the decision.

Any lawyer whom you know would gladly give the desired information.

REFERENCES

Hart, "Actual Government," Chap. XVII.
Bryce, "American Commonwealth," Vol. I, Chaps. XXII–XXIV.
Willoughby, "Supreme Court."
Carson, "Supreme Court."
Woodburn, "American Republic," Chap. VI.

CHAPTER XXII

THE GOVERNMENT OF TERRITORIES AND DEPENDENCIES

The National Domain. — The cession of western lands by the original states prior to the going into effect of the Articles of Confederation, gave to the United States an immense tract of land extending west to the Mississippi River. The last important act of the Congress of the Confederation was the famous Ordinance of 1787, which provided for the government of the Northwest Territory. This ordinance furnished a model for territorial government, which the United States has followed in many details. For the Northwest Territory a territorial government was established, negro slavery was prohibited, civil and religious liberty was guaranteed, and it was understood that in due time the territory would "be formed into distinct republican states."

Subsequent acquisitions immensely enlarged the national domain: the great Louisiana region, stretching west and north from the Mississippi River, was purchased from France in 1803; Florida was purchased from Spain in 1819; in 1846 our title was made clear to the Oregon country, to which our real claim had been that of exploration and settlement, by treaty with Great Britain; the southwestern boundary of the United States reached its present limits as a result of the treaty which terminated the Mexican War, and the Gadsden purchase of 1853.

The original states, together with Maine, Kentucky, and Texas, were never a part of the national domain.

Land Policy of the United States. — The public domain of the United States, which has included the immense area of 2,889,175 square miles,[1] has been largely sold to actual settlers at a price ranging from $1.25 to $2.50 an acre. The Homestead Act of 1862 enabled "any citizen, or person who has declared his intention of being such, who is the head of a family, or has attained his majority, or has served in the army or navy, and is not already possessed of more than 160 acres in any state or territory," to obtain a homestead of 160 acres at practically no expense, on condition that he should actually cultivate the land for five years, unless he was a soldier or sailor in the employ of the United States during the Civil War, in which case residence for only one year was required. Public land has also been distributed in accordance with the terms of the Timber Culture Act, which provided that a citizen over twenty-one years of age, the head of a family, might secure 160 acres of public land by setting out a certain area of land in trees and keeping the trees in good condition for eight years. Much of the public land has been given away to encourage the building of railroads, and a considerable amount has been given for the endowment of schools and colleges.

The United States has now parted with most of its land in one or other of the ways mentioned; of that which remains, comparatively little is suitable for agricultural purposes, though doubtless irrigation would reclaim a large part of the now arid lands.

A part of the public land has been retained for national parks and forest reservations. Indian reservations and military reservations exist in many parts of the country.

[1] Donaldson, "The Public Domain," pp. 14-16.

The Results of the Public Land Policy. — Notwithstanding grave abuses, whereby corporations and private persons have been enabled to secure fraudulently vast tracts of land, the land policy has resulted in disposing of the public land to millions of actual settlers, who have occupied holdings of small areas. This is of the utmost importance to the United States, as it has caused the land to be tilled by proprietors and not by tenants.

Government of Organized Territories. — An organizing act, passed by Congress, provides for a territory the usual executive, legislative, and judicial departments. The chief executive of a territory is a governor appointed for a term of four years by the President, with the consent of the Senate. In a similar manner, and for a like term, the President appoints the treasurer, auditor, and other chief territorial officers. A territorial legislature, consisting of two houses, is elected by the voters for a term of two years. The legislature may make laws for the territory, and provide for the organization of local governments. The highest territorial judges are appointed by the President for a term of four years. They are not a part of the United States Judiciary, but are regarded as a part of the territorial government, and may be removed from office by the President. Each territory may send a delegate to Congress. The delegate may address Congress on matters affecting his territory, but he has no vote.

Territorial government is a combination of self-government and control by the United States. Though the territorial legislature has considerable power, its members are elected by voters whose qualifications are determined by Congress, and any acts of the legislature may be set

aside by Congress. All judges, except the highest, are elected by the voters. Citizens of territories have no vote in presidential elections.

All the states, except the original thirteen and Vermont, Kentucky, West Virginia, Texas, and California, have gone through the territorial stage.

Unorganized Territories. — Alaska and Indian Territory are unorganized territories. The executive officers of Alaska, consisting of a governor, attorney-general, and surveyor-general, are appointed by the President with the consent of the Senate. There is no legislature. Congress alone may pass laws for the territory. Three judges are appointed for the territory by the President with the consent of the Senate. Though Alaska was purchased from Russia in 1867, it had no code of laws until a code was passed by Congress in 1900. Local self-government is exercised by towns of three hundred inhabitants.

The government of the Indian Territory has been peculiar. Until 1898, Congress recognized the civilized Indian tribes as "domestic, dependent nations" and entered into treaties with them on this basis. There was no uniform government for the entire territory. In 1898 Congress adopted a code of laws for the territory, established courts, and the tribal laws were made subject to the approval of the President. Provision has been made for the individual allotment of land and the early cessation of tribal government. The white population of Indian Territory, considerably larger than the Indian population, has gained control of a large part of the land by "leases," though it is against the principles of the government to allow

white men to live on reservations, and they cannot acquire legal title to land.

How a Territory May Become a State. — An organized territory with sufficient population, that of an average Congressional district, may, through its legislature, petition Congress to pass an "enabling act." Such an act authorizes the territory to form a state constitution, and may prescribe certain conditions. The voters of the territory then elect delegates to a constitutional convention, which forms a constitution and submits it to the people for ratification; after the constitution has been approved, Congress may declare the new state to be admitted to the Union. In a few cases, territories have not waited for Congress to pass an enabling act, but have framed a constitution and applied at once for admission. Michigan and California were so admitted.

The Constitution requires that "no state shall be framed or erected within the jurisdiction of any other state, nor shall any state be formed by the junction of two or more states, without the consent of the legislature." West Virginia was admitted in 1863, without the real consent of Virginia, most of which was at that time in rebellion against the authority of the United States, but after the conclusion of the war the Virginia legislature gave its consent to the act which had already gone into effect.

The District of Columbia. — The District of Columbia is governed directly by Congress. Since 1878, control over the district has been exercised through three commissioners appointed by Congress. Citizens of the district have no vote.

INSULAR POSSESSIONS

Porto Rico. — By the Treaty of Paris (1899) the island of Porto Rico was ceded to the United States. Until April 12, 1900, it had a military government, but on that date it was given a civil government very similar to that enjoyed by our organized territories.

A chief executive, appointed by the President, serves for four years. His salary is $8,000 a year. There is an executive council of eleven members, five of whom must be natives of Porto Rico. Members of the council are also appointed by the President for a term of four years. Included in this council, which serves as an upper chamber of the legislature, are the secretary, attorney-general, commissioner of education, and auditor. A lower legislative house, composed of thirty-five members, is elected by the voters for a term of two years. The judiciary is composed of a United States District Court and a Supreme Court. The island sends a commissioner to Washington, but he has no seat in Congress.

The Philippines. — The Philippine Islands were under military government after the war with Spain. Congress, in 1902, provided a permanent civil government. A governor, appointed in the usual manner by the President, is the chief executive; his annual salary is $15,000. With him are associated six executive officers, consisting of a secretary, an attorney-general, a treasurer, an auditor, a commissioner of education, and a secretary of the interior. The governor, the six heads of executive departments, and five persons, who must be natives of the Philippines, appointed by the President, constitute a council, which acts as an upper legislative chamber.

A lower legislative house, consisting of thirty members, is elected by the people for a term of two years. In order to vote for members of the House of Delegates, as the lower house is called, a person must be able to prove one year's residence, must be twenty-one years old, and must either own taxable property or be able to read and write Spanish or English.

The Sulu Islands. — These islands were also acquired from Spain, but that country had never really exercised much authority over them. By treaty, negotiated August, 1899, between the Sultan of Sulu and the United States, represented by a military officer, the sovereignty of the United States was acknowledged. The Sultan remains at the head of the government and is paid a salary by the United States. The United States is given authority to occupy and control such parts of the islands as may be regarded as necessary to its interests.

The Hawaiian Islands. — These islands were annexed to the United States by a joint resolution of Congress in July, 1898. Until 1900, the republican government of Hawaii continued in power, but then the islands were given a government like that of an organized territory, including a delegate to Congress.

Guam and Tutuila. — Guam and Tutuila, the latter one of the Samoan group, acquired by treaty in 1899, are governed by naval officers appointed for that purpose.

The Insular Possessions and the Constitution. — Until the Treaty of Paris all territory, with the exception of Alaska, was acquired with the understanding that it should

be incorporated into the Union in due season, and that in the meantime the civil rights of its inhabitants should be preserved. The treaty by which Alaska was acquired made no mention of incorporation into the Union, but guaranteed the civil rights of the inhabitants.

Recent decisions of the Supreme Court have been to the effect that territory acquired by treaty is not a part of the United States, but a possession of the United States. Territory may be acquired by treaty, but it can be made a part of the United States only by act of Congress. From this it follows that the Constitution does not cover territory thus acquired, and that Congress may govern such territory as it sees fit. For example: the Constitution provides that "all duties, imports, and excises shall be uniform throughout the United States," but this does not apply to the Philippines as they are not a part of the United States, but it should be noted that some constitutional restrictions include our insular possessions, for example, the Thirteenth Amendment, which prohibits slavery within the United States "*or any place subject to their jurisdiction.*"

QUESTIONS ON THE TEXT

1. Show how the national domain of the United States was acquired.
2. How has the United States disposed of the national domain? What have been the results of this policy?
3. Describe the government of an organized territory.
4. Describe the government of Alaska and the Indian Territory.
5. Describe the government of Porto Rico and the Philippine Islands.
6. How may a territory become a state?
7. Give arguments tending to establish or to controvert the following: "The Constitution follows the flag."

QUESTIONS SUGGESTED BY THE TEXT

1. Explain the importance of Congressional control over the District of Columbia.

2. Why should the United States maintain forest reservations?

3. What may be done by irrigation to make arid lands productive? *Century Magazine*, Vol. L, pp. 85–99. *Review of Reviews*, Vol. VIII, pp. 394–406. *Outlook*, Vol. LXVI, pp. 337–344.

4. Give a discussion of the problems resulting from the acquisition of our insular possessions.

REFERENCES

Hart, "Actual Government," pp. 332–380.
Bryce, "American Commonwealth," Vol. I, Chap. XLVII.
Woodburn, "American Republic," Chap. VIII.
Roosevelt, "Winning of the West," Vol. III, Chap. VI.
Reinsch, "Colonial Government," Part VII.

CHAPTER XXIII

LEGAL RIGHTS AND OBLIGATIONS

Sources of Law. — We have seen that the written law consists of the Constitution of the United States, United States laws and treaties, state constitutions, and state laws. There is also unwritten law which is composed of common law and equity. The common law, which in a large measure has come to us from England, comprises many customs and rules which by long usage have acquired the force of law. An example of the common law is the custom of three days of grace in the payment of a note. This custom arose when travel was so uncertain that a person could not depend upon reaching his destination at an exact time. In the absence of written law covering a case, the principles of common law are applied. Equity is another branch of unwritten law, which arose when the principles of common law had become fixed and unchangeable. Equity is a branch of the law designed to modify the application of law by the principles of natural justice when the law would work an injustice or hardship. Equity cases are now a most important branch of law.

Object of Law. — Laws are designed to secure rights and to punish wrongs. Laws protect the right of life, the right of property, the right of reputation, etc.

Personal and Real Property. — There are two kinds of property: personal and real. Real property is principally composed of lands and buildings, but this species of prop-

erty also includes *appurtenances*, which are certain minor rights, such as right of way, right to the use of a spring, or right to use a quarry. Land is often owned by one man, subject to certain claims held by another. Personal property includes movable property, such as clothing, tools, money, household goods, and promissory notes.

Contracts. — A contract is a voluntary agreement between two or more persons to do or not to do a certain thing. Contracts are either express or implied. An express contract may be made in writing, or orally, or even by a gesture, such as nodding the head to an auctioneer. An implied contract is one that may be inferred from the acts or circumstances of the parties. When goods are ordered at a store, it is implied that the current price will be paid. A well-known implied contract is the taking of a paper from the mails after the subscription has expired; such action indicates that the paper is desired, and payment must be made. Some contracts, like deeds, must be sealed. A formal seal — such as that of a notary public — may be attached to the contract, though a wafer, a bit of wax, or almost anything else, will ordinarily suffice for a seal. In many states a scroll, printed or made with a pen, with the word "Seal" or "L.S." will answer the purpose.

"It takes two persons to make a contract," but when the two agree the contract is binding. A storekeeper may mark goods in a window at an exceedingly low price; if a customer offers the amount indicated, the bargain is binding.

Conditions Necessary to a Contract. — The parties to a contract must ordinarily be of full age. The insane and

feeble-minded are incapable of making contracts. No contract is binding if the thing to be done is contrary to law or opposed to good morals. Thus, a gambling debt may not be collected by process of law. Contracts in which force or fraud have entered, or which are impossible to perform, are not binding. Finally, there must be a consideration, which may be money or goods, love and affection (often given as the consideration in contracts between husband and wife), or mutual promises.

Remedy for Broken Contracts. — Loss sustained by reason of a broken contract may be recovered through legal action, or the courts may compel the terms of the contract to be met. Unless an attempt is made to enforce a contract within a reasonable time, in most states six or seven years, a contract cannot legally be enforced.

Variety of Contracts. — Contracts cover every variety of business relations. There are contracts to sell, contracts to lease, contracts of agency, contracts of partnership, contracts of insurance, and a host of others.

Title and Transfer of Real Estate. — Personal property may be exchanged without a written contract, but a written document, or deed, is necessary in order to transfer a title to real estate. The deed must describe the property, name the persons who are parties to the contract, state the consideration, and contain the signature and seal of the person who is giving up ownership of the property. Deeds are recorded in the office of the county clerk.

Mortgages. — Land may be pledged as security for the payment of a debt by the means of a mortgage. A mort-

gage is not a transfer of property, but is a claim to property, which may lead to a transfer of ownership if the obligation is not met when it falls due.

A mortgage must contain a description of the land pledged, the names of the parties, and the amount of the consideration. Unless the debt be paid when it becomes due, the mortgage may be foreclosed, in which event the property is sold and the proceeds devoted to paying the debt. Should the proceeds of the sale be more than enough to discharge the debt, the surplus is given to the mortgagor. Mortgages are generally recorded in the office of the county clerk of courts. If the mortgagor be married, the mortgage must bear the signature of his wife, otherwise the property might be subject to the dower interest of the wife. A chattel mortgage is a mortgage on personal property. It need not be recorded.

Contracts to Lease. — A written contract transferring possession of property for a limited time is called a lease. The owner gives possession of the property in return for a stated payment. The lessee is bound to return the property in as good condition as he found it, except for reasonable deterioration due to its use.

Transfer of Property by Will. — Title to property may be transferred by means of a will. A last will and testament must usually be made in writing; the testator, or maker of the will, must be of sound mind; and in most of the states it must be witnessed and signed by two persons who are not beneficiaries under the terms of the will. Undue influence exerted by a beneficiary invalidates a will. Minors cannot convey real property by will, but

may so convey personal property in most of the states. A will may become invalid by the making of a later will, or a *codicil* may make changes in the body of the document.

An executor, named in the will, carries out its provisions, but is responsible to the courts. Should a person die intestate, or without having made a will, his property passes to the nearest kin as provided by law. The gift of property by will is called a bequest. Wills that transfer ownership of real estate are recorded in the same manner as deeds.

No form is prescribed by law for the making of wills, and the services of a lawyer are not absolutely necessary. However, legal language is more exact than that used by most laymen, and a will drawn by a lawyer will usually secure the desires of a testator more nearly than if drawn by himself. As a rule, "the man who is his own lawyer has a fool for a client."

Promissory Notes. — A promissory note is a written promise to pay a sum of money at a future time. The time of payment may be a certain definite time, or it may be payable on demand. Interest is usually specified in the note, in which case interest begins to accumulate from the date of the note; if interest is not mentioned, it begins at the date when the note becomes due. A note is negotiable if made payable to the order of the payee, or to "the bearer." The payee, or person in whose favor the note is drawn, may sell a negotiable note to a third party, in which case he writes his name on the back of the note, and by this indorsement becomes responsible for the payment. When a note becomes due, it is presented to the maker for payment; if payment be refused by the maker, an indorser

may be made responsible by being notified in writing of the refusal of the maker to pay the note. This process is known as "protesting a note."

The Contract of Marriage. — Marriage is legally a contract. The mutual promises made by parties to the contract are the consideration. An engagement to marry is a contract to be executed in the future; it is binding only upon persons of legal age; it may be dissolved by mutual consent; and a failure to abide by the contract may result in a suit for damages. False representations in regard to wealth, social position, or character, legally justify the breaking of an engagement to marry, though they in no wise affect the legality of a marriage. The marriage contract is for life, but may be terminated by divorce. The husband must support and protect the wife; the wife must live with the husband, and if she leaves him without cause he cannot be compelled to support her.

Parents and Children. — Children legally owe obedience and service to parents. Parents have the custody of minor children, and may compel obedience by punishment, but punishment must not be cruel. The earnings of a minor child belong to the parent, though he may voluntarily permit the child to enjoy the fruits of his labor. Parents must support children until they are twenty-one years of age.

Guardian and Ward. — A guardian is appointed by a probate or equity court, or may be named in a will, to care for the property of a minor child. The guardian must support and educate the ward, according to the ward's

social position. A guardian is responsible for loss to the ward's property if occasioned by neglect. Guardianship is terminated by turning over the property to the ward when he becomes of age.

Master and Servant. — Employer and employee are the popular terms now used to designate, in a general way, the classes known to the law as master and servant. The master is entitled to service and obedience during the term of the contract, and the servant is entitled to the wages agreed upon, and may not be discharged, unless for cause, before the expiration of the contract term. A servant who, without cause, leaves his master's service before completing the contract term, can legally collect no wage; a master, who discharges a servant without cause, may be sued for the entire wage of the contract term.

A servant is liable for injury to the property of a master only when the injury is the result of carelessness.

INTERNATIONAL LAW

Nature of International Law. — International law comprises the rules which sovereign States observe in their relations with one another. International law is, in the main, composed of customs which by long usage have acquired the force of law. International law differs from municipal law, the name applied to the law of a sovereign State, as there is no means, short of war, of enforcing international law, except the honor of the nation. Most international relations in time of peace are regulated in accordance with the terms of treaties, but war suspends or annuls treaties, except in so far as treaties deal with methods of war and describe the boundaries of a State.

War. — War is an armed contest between States or parts of States. An insurrection is not recognized as war, unless the insurgents have a regularly organized government, in which case the insurrection is civil war. States engaged in war are known as belligerents. States taking no part in a struggle are called neutrals.

Declaration of War. — A formal declaration of war was once considered necessary, but now no declaration is absolutely necessary, as the fact that war may be impending is known throughout the civilized world whenever the relations of two States become seriously strained. It is, however, necessary that a State should give public notice of its intention to wage war, in order that neutral powers may issue proclamations of neutrality and enforce their neutrality laws.

Rules Affecting Belligerents. — In order to mitigate the horrors of war, a number of rules have arisen which regulate the conduct of belligerent powers.

1. Belligerents must not employ savages, or semi-civilized peoples, as part of their fighting forces. This is because such peoples have a low standard of morality and will not be guided by the rules of civilized warfare.
2. Non-combatants are not to be injured.
3. Prisoners are to be treated with no unnecessary harshness.
4. No use is to be made of poisons.
5. Explosive bullets in small arms are prohibited. Explosive rifle bullets make wounds more painful and

deadly, but result in no great material advantage to the party using them.

6. The enemy's flag shall not be used for purpose of deceit.

Property of an Enemy in Time of War. — Public property of a military character, such as forts, dockyards, military and naval stores, may be appropriated or destroyed. Public money, and most movable goods, may also be seized or destroyed, but much public property of a non-military character, such as buildings, libraries, and works of art, are exempt from destruction or injury.

Private property that may be used for war may be confiscated, or publicly purchased. Under this class would fall horses, cattle, wagons, fuel, provisions, cloth, and shoes. Private property, not capable of direct military use, such as money, furniture, works of art, etc., is exempt from seizure.

Blockade. — The ports of an enemy may be blockaded by public armed ships and by shore batteries, but a formal notice of such blockade must be issued in order to inform owners of neutral shipping. Any ship that tries to enter a blockaded port is subject to capture, but if a ship has left its home port and been on the high seas since the blockade was proclaimed, it may not be seized without warning. A captured ship is called a prize, but it is not legally forfeited until its case has been passed upon by a prize court, which is maintained for that purpose by the belligerent power in a port of its own or in a port of an ally.

Right of Search. — Neutral merchant vessels on the high seas, that is, more than three miles from shore, are liable to search by the public armed vessels of belligerent powers. Should contraband of war, which is evidently intended for an enemy, be found on board, it is subject to seizure. Contraband of war consists of any property that may directly serve a warlike purpose, such as arms and munitions of war, coal, food, and supplies if destined for army uses. States do not agree in regard to exactly what articles may be treated as contraband, and it is customary for belligerents to state at the beginning of hostilities what they will regard as contraband.

The Declaration of Paris. — The Treaty of Paris, which brought to an end the Crimean War, was signed March 30, 1856. Representatives of the powers remained in Paris for several weeks and formulated rules in regard to the capture of property on the seas in time of war. These rules, now accepted as international law, are as follows:

1. Privateering is, and remains, abolished.
2. A neutral flag covers enemy's goods, with the exception of contraband of war.
3. Neutral goods, with the exception of contraband of war, are not liable to capture under an enemy's flag.
4. Blockades to be binding must be effective, that is, must be maintained by a force sufficient to guard the entrance to the port or ports, and must be continuous.

Obligations of Neutrals. — Neutral States must not give aid to either belligerent. This does not debar the citizens

of neutral States from trading with belligerents even to the extent of sending them contraband of war, but a neutral State must exercise due care that no expeditions be fitted out within its domains against a friendly power, and a neutral State must not itself sell war-ships or other contraband of war to a belligerent. Ships of war of belligerent States may enter neutral ports, but ordinarily may not remain more than twenty-four hours, and must not take on coal beyond the amount necessary to take them to the nearest home port.

Treaties of Peace. — A war is formally ended by a treaty of peace, which is binding when signed by both parties. A suspension of hostilities is usual when peace negotiations have been opened.

International Arbitration. — War should never be resorted to unless all other means of settling international difficulties have been tried and have failed. As courts of law settle disputes between individuals, so international courts of arbitration may terminate most international quarrels.

The International Peace Conference, which met at The Hague in 1899, included representatives of all the great powers and of many of the minor powers. The representatives agreed upon a treaty, afterward ratified by all of the powers represented, the most important provision of which established a Permanent International Court of Arbitration. This court has permanent headquarters at The Hague, and each government which is a party to the agreement may name four persons to be members of the court for a term of six years. In case of a dispute between States, arbitrators may be selected from this court, and

their decisions are morally binding. Though no restriction upon the action of States was taken, it was agreed that in the absence of other arrangements, disputes should be referred to five arbitrators, two of whom were to be named by each State concerned in the question, and these four were to choose a fifth. In case difficulty should arise in choosing the fifth arbitrator, he might be chosen by the chief executive of a power mutually agreed upon, or by the chief executives of two powers, one of whom might be named by each disputant. The American delegates approved the treaty subject to the proviso that "nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in, the political questions or internal administration of any foreign State; nor shall anything contained in the said convention be so construed as to require the relinquishment by the United States of America of its traditional attitude towards purely American[1] questions."

QUESTIONS ON THE TEXT

1. Define common law, statute law, and equity.
2. Show the distinction between real and personal property.
3. What is a contract? What conditions are necessary in order to make a contract binding?
4. Explain the nature of mortgages.
5. What is a promissory note?
6. How does international law differ from municipal law?
7. What rules govern the actions of belligerents?
8. State the provisions of the Declaration of Paris?
9. What is The Hague Court of Arbitration?

[1] "American" here refers to both South America and North America.

QUESTIONS SUGGESTED BY THE TEXT

1. Refer to a dictionary for the meaning of the term "corporation." How does a corporation differ from a partnership? How much of the business in your community is conducted by corporations?

2. Why are regulations concerning the transfer of real estate more exact and formal than rules concerning the transfer of personal property?

3. Should there be uniform divorce laws throughout the United States?

4. Is war a necessary evil in the present state of civilization?

REFERENCES

Dole, "Talks about Law."
Robinson, "Elementary Law."
Spencer, "Commercial Law."
Davis, "International Law."

APPENDIX

APPENDIX

THE ARTICLES OF CONFEDERATION

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I. — The style of this Confederacy shall be, "The United States of America."

ART. II. — Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III. — The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV. — The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants

thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V. — For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States, in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonment during the time of their

going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI. — No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or State; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign State; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or State, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessel of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defense of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be

actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or State, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

Art. VII. — When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel shall be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

Art. VIII. — All charges of war, and all other expenses that shall be incurred for the common defence, or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

Art. IX. — The United States, in Congress assembled, shall

have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the peti-

tioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either

party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective

States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same nor shall a question on any other

point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the legislatures of the several States.

Art. X. — The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

Art. XI. — Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

Art. XII. — All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged

ART. XIII. — Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual.

In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

THE CONSTITUTION OF THE UNITED STATES

Preamble

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I. Legislative Department

Section I. Congress in General.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section II. House of Representatives

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. [Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.[1]] The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not

[1] Modified by abolition of slavery.

exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island and Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section III. Senate.

1. The Senate of the United States shall be composed of two senators from each State, chosen by the legislature thereof, for six years; and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section IV. Both Houses.

1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section V. The Houses Separately.

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section VI. Privileges and Disabilities of Members.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Section VII. Mode of Passing Laws.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections

to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section VIII. Powers Granted to Congress.

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads:

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court.

10. To define and punish piracies and felonies committed on the high seas and offenses against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.[1]

Section IX. Powers Denied to the United States.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

[1] This is the "Elastic Clause."

Section X. Powers Denied to the States.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

ARTICLE II. EXECUTIVE DEPARTMENT

Section I. President and Vice-President.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective States and vote

by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.][1]

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

[1] Amended. See Amendments Art. XII.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

8. Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

Section II. Powers of the President.

1. The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appoint-

ments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section III. Duties of the President.

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section IV. Impeachment.

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

Article III. Judicial Department

Section I. United States Courts.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their

services a compensation which shall not be diminished during their continuance in office.

Section II. Jurisdiction of the United States Courts.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.[1]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section III. Treason.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment

[1] This clause has been amended. See Amendments, Art. XI.

of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

Article IV. The States and the Federal Government

Section I. State Records.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section II. Privileges of Citizens, etc.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.[1]

Section III. New States and Territories.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make

[1] Annulled by the abolition of slavery.

all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section IV. Guarantee to the States.

The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

Article V. Power of Amendment

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the senate.

Article VI. Public Debt, Supremacy of the Constitution, Oath of Office, Religious Test

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the Confederation.

2. This Constitution, and the laws of the United States

which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The senators and representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII. Ratification of the Constitution

The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present,[1] the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof, we have hereunto subscribed our names.

George Washington, President, and Deputy from Virginia.

New Hampshire — John Langdon, Nicholas Gilman.

Massachusetts — Nathaniel Gorham, Rufus King.

Connecticut — William Samuel Johnson, Roger Sherman.

New York — Alexander Hamilton.

New Jersey — William Livingston, David Brearly, William Patterson, Jonathan Dayton.

Pennsylvania — Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimons, Jared Ingersoll, James Wilson, Gouverneur Morris.

[1] Rhode Island sent no delegates to the Federal Convention.

DELAWARE — George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

MARYLAND — James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll.

VIRGINIA — John Blair, James Madison, Jr.

NORTH CAROLINA — William Blount, Richard Dobbs Spaight, Hugh Williamson.

SOUTH CAROLINA — John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

GEORGIA — William Few, Abraham Baldwin.

Attest: William Jackson, *Secretary.*

AMENDMENTS[1]

ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures,

[1] The first ten Amendments were proposed in the First Congress and declared in force Dec. 15, 1791.

shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Article V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Article VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Article VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reëxamined in any court of the United States, than according to the rules of the common law.

Article VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the states respectively or to the people.

Article XI.[1]

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

Article XII.[2]

1. The electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed;

[1] Proposed by Congress March 5, 1794, and declared in force Jan. 8, 1798.

[2] Proposed by Congress Dec. 12, 1803, and declared in force Sept. 25, 1804.

and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Article XIII.[1]

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

[1] Proposed by Congress Feb. 1, 1865, and declared in force Dec. 18, 1865.

Article XIV.[1]

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a senator or representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But

[1] Proposed by Congress June 16, 1866, and declared in force July 28, 1868.

Congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Article XV.[1]

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

THE FIFTY-EIGHTH CONGRESS AND ELECTORAL VOTE OF THE STATES.

States	Senate	House Rep's	Electoral Vote
Alabama	2	9	11
Arkansas	2	7	9
California	2	8	10
Colorado	2	3	5
Connecticut	2	5	7
Delaware	2	1	3
Florida	2	3	5
Georgia	2	11	13
Idaho	2	1	3
Illinois	2	25	27
Indiana	2	13	15

[1] Proposed by Congress Feb. 26, 1869, and declared in force March 30, 1870.

States	Senate	House Rep's	Electoral Vote
Iowa	2	11	13
Kansas	2	8	10
Kentucky	2	11	13
Louisiana	2	7	9
Maine	2	4	6
Maryland	2	6	8
Massachusetts	2	14	16
Michigan	2	12	14
Minnesota	2	9	11
Mississippi	2	8	10
Missouri	2	16	18
Montana	2	1	3
Nebraska	2	6	8
Nevada	2	1	3
New Hampshire	2	2	4
New Jersey	2	10	12
New York	2	37	39
North Carolina	2	10	12
North Dakota	2	2	4
Ohio	2	21	23
Oregon	2	2	4
Pennsylvania	2	32	34
Rhode Island	2	2	4
South Carolina	2	7	9
South Dakota	2	2	4
Tennessee	2	10	12
Texas	2	16	18
Utah	2	1	3
Vermont	2	2	4
Virginia	2	10	12
Washington	2	3	5
West Virginia	2	5	7
Wisconsin	2	11	13
Wyoming	2	1	3
Total	90	386	476

Territories	Delegates		
Arizona	1		
Hawaii	1		
New Mexico	1		
Oklahoma	1		

APR 14 1931